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TENDENCIES IN STATE AND LOCAL FINANCE AND THEIR RELATION TO STATE AND LOCAL FUNCTIONS

VOLUMES have been written concerning the proper division of functions between central and local governments, but the important part played by the revenue system in determining such division has received scarcely more than passing comment. Yet it is clear that all other powers are conditioned by the financial power. State legislatures may make generous grants of power to the municipalities; local authorities may believe themselves to be firmly entrenched behind home-rule provisions in the state constitution; yet when these local authorities come to make up their budgets they often find that the revenues at their disposal will barely supply the necessities, and the privileges which are legally theirs are of no avail. When public school facilities are so limited that the children can attend school only half of the day, and when the emergency of a circus parade leaves the residence districts without police protection, the "power" to provide public transportation at less than cost, or to establish a municipal theatre, exists only on paper.

For the most part local governments have enjoyed considerable freedom in this country,—so much, in fact, that an English critic has spoken of the American system as an "Anarchy of Local Autonomy" which "has given the United States the worst local government of any State claiming to be civilized."[1]

[1] Sidney Webb in his Preface to J. Watson Grice, *National and Local Finance*, 1910, pp. vii–viii.

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It is true that no inherent right of local self-government is recognized,[1] and that what the legislatures have given they may take away; but in spite of frequent, and often unfortunate legislative interference, state governments have given local privileges with a liberal hand. Legislative interference has consisted in requiring the local authorities to carry on activities which they would not have undertaken of their own initiative more often than it has limited local activities. State laws frequently fix minimum standards for county and city charitable institutions and for the public schools, and only rarely do they restrict such local functions, except indirectly through tax limits. Such interference is justified on the ground that the local divisions are the agents of the state. State legislatures are notably negligent, however, in providing for the cost of the activities which they require, and these mandatory expenses, which often amount to from one-fourth to one-half of all local expenditures, have been resented by local officials because they fall on local treasuries without consideration of resources or of competing demands.

It is the local governments' misfortune that the costlier functions fall to their lot while the more lucrative sources of revenue belong to the states. The proportion that local expenditures bear to combined central and local expenditures is higher in the United States than in any European country for which we have reliable records. Local expenditures in this country are four times as large as state expenditures, and they normally exceed state and national expenditures combined by a considerable margin, although the unprecedented national expenditures for the World War outweighed local disbursements for a few years. At the same time local governments, especially cities, have been peculiarly circumscribed in their tax power.

The local districts have always served as the agents of the state in administering taxes. Consequently, while the tax

[1] The opinion handed down by Judge Cooley in the case of the People *ex rel.* Le Roy *et al. v.* Hurlbut, 1871, that "local government is matter of absolute right, and the state can not take it away" has been supported only in Indiana, Iowa, Kentucky, and, for brief periods, in Nebraska. (H. L. McBain, *Law and Practice of Municipal Home Rule*, 1916, p. 13.)

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power rests with the state, the elaborate machinery of tax administration was built up originally by the local governments. During the nineteenth century the general property tax was accepted, almost universally, as the backbone of the state and local tax systems. It was supplemented, sometimes generously, by poll and license taxes. All of these were locally administered. The bulk of these taxes was for local use, and the state's share was regularly collected by local officials as an addition to the local levy. The convenience of using the existing local administrative machinery was so great that in some instances the states turned over the collection of strictly state taxes, e. g., the inheritance tax, to local officials, allowing them five to fifteen per cent of the amounts collected for their services. The revenue provided by this system was for the most part adequate.

To an increasing extent, however, the states have assisted and interfered in tax administration, both for the protection of their interests and those of the smaller divisions. The state was forced, almost from the start, to "equalize" local assessments for the state levy, and, somewhat later, to take over entirely the assessment of public utilities. The growing complexity of industrial conditions made it increasingly necessary, also, to devise new taxes. Special taxes on corporations, on intangibles, and on personal income have been developed in consequence. Effective taxation of the different sources of our wealth demands a wider jurisdiction than the local tax unit, and the administration of these taxes has been either closely supervised by state authorities or, more commonly, has been carried on wholly by state officials. As a result of these new taxes certain classes of property have been withdrawn from the general property tax. Where this has occurred the state has sometimes attempted to compensate the local governments concerned by sharing the revenues of the new taxes with them. Thus state corporation taxes are often shared with local districts because they have replaced local taxes on stocks and bonds. The states have also shared new and lucrative taxes with the local divisions when no property has been withdrawn from local taxation in consequence of the imposition of these

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taxes. The gasoline tax is a notable instance of this. Usually, however, when the new taxes have been superimposed on the old, and sometimes when they have replaced them, the states have kept the proceeds in their own treasuries.

Thus the tide has turned. The states are depending less and less on locally administered sources of revenue and the municipalities are depending more and more on state administered sources. Local administration still predominates for the general property tax and poll and license taxes, although the administration is sometimes divided, and sometimes duplicated. These taxes are of less importance to the states than formerly, however. The proceeds of poll and license taxes combined amount to less than one-half of one per cent of state tax revenues, and the yield of state property taxes has dropped to less than thirty per cent of such revenues.

TABLE I

STATE TAX REVENUE FROM LOCALLY-ADMINISTERED SOURCES*

Date	Tax Revenue From All Sources	Locally-Collected Tax Revenue	General Property Tax	Other Locally-Collected Taxes
		Thousands of Dollars		
1902	$157,935	$92,911	$82,320	$10,591
1912	309,658	161,776	139,750	22,026
1925	1,282,037	376,045	358,602	17,444
			Per Cent	
1902	100.0	58.8	52.1	6.7
1912	100.0	52.2	45.1	7.1
1925	100.0	29.4	28.0	1.4

These and other changes have restricted the local tax possibilities. The lucrative liquor licenses disappeared with the advent of prohibition; poll taxes are no longer regarded as an essential of democratic government; and the general property

*The figures include taxes and special assessments. For this and the following tables all figures for 1902 and 1912 have been taken from the Census Bureau, *Wealth, Debt and Taxation*. The figures for 1925 have been compiled from the Census Bureau, *Financial Statistics of States, 1925*, and from the tax reports of the individual states.

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tax has ceased to be anything but a tax on such real estate as has not obtained the privilege of tax exemption. This real estate, fortunately, is a substantial amount, increasing in value, but it is not always adequate. The property tax still produces a large proportion (about eighty per cent) of all local tax revenue. Moreover it is not always as burdensome as it appears, owing to almost universal underassessment of property and to the fact that a large part of the tax has long since been capitalized. However, in the face of state limits on the tax rate, poor local administration, and our unwillingness to accept a proportionate tax on real estate as a true measure of tax-paying ability, it is often impossible or undesirable to meet growing expenditures from this source. Business license and occupation taxes are frequently utilized sources, but the yield of such taxes is distinctly limited and they are not especially desirable. Taxes on unearned increments and local additions to state income taxes have been suggested, but never tried in the United States. Nothing else of importance is available except special assessments.

The difficulty is not merely that the states have been slow to delegate financial powers to local authorities. The exhaustive search for new sources of revenue which inevitably accompanies growing expenditures has clearly revealed the fact that even when the state permits the local governments to tax new sources the local jurisdictions are too narrow to permit of successful administration. City income and inheritance taxes might be permitted by the state, but if such taxes were imposed the wealthier citizens would promptly establish their residence in the suburbs. Local authorities are much at fault. They often spend carelessly. They sometimes levy taxes when the surplus to their credit would cover expenditures for a year or more. Local property assessments are so unequal that a tax which would not be unduly burdensome if evenly distributed falls with crushing weight on property owners who are out of favor or out of luck. But the fact remains that the states, with all of the tax resources of the local governments and a growing number of resources not available to the smaller units, spend annually only one-fourth of the sum spent by the municipalities.

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To be sure the situation is changing. The "Anarchy of Local Autonomy" is gradually giving place to the more centralized control found in one form or another in European countries. Such centralization is the inevitable result of increasing density of population. It follows that the state is shouldering an ever-increasing share of the cost of government. This has afforded no apparent relief to local treasuries thus far, however, for local activities are developing at a rapid pace, especially in the cities, and local taxes are coming from an ever narrowing base. The state has taken over the burden of tax administration more rapidly than it has taken over the burden of meeting governmental costs. This is evident from the fact that the proportion of all state and local taxes administered by the state has risen faster during recent years than the proportion of all state and local expenditure incurred by the state. It is apparent also from the obviously greater ease with which state governments, as contrasted with municipal, balance their budgets.

The necessary outcome of this unequal distribution of revenues and expenditures is that the states must subsidize the local divisions or take over their functions, and it would be unfortunate if state governments, backed by lucrative income and corporation taxes, should take over local functions, not because the local governments have failed to perform these functions well, but because the local governments cannot pay. We congratulate ourselves on the state school systems which are replacing the varied educational standards fostered by local independence; we watch with complacency while the network of state and national highways spreads; but those who believe with Viscount Bryce that local self-government is the "school of democracy" can not but deplore the increasing interference by central authorities in hitherto important local functions. When a function becomes of more than local concern it is essential that the state should at least control the performance of that function. There is a chance, however, that the state will interfere unnecessarily; because some educational reformers are impatient of the slow progress made by parsimonious country school boards; or because an occasional

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motorist, on crossing a county line, is irritated by the abrupt change from smooth pavements to ruts and mud holes. And if the state absorbs functions which the local governments can administer to everyone's satisfaction, merely because the state is in a better position to pay the bill, the desirability of the change is even more doubtful.

The transfer of functions from the local to the state government is not, however, an inevitable consequence of local need. The constant cry of local authorities for more revenue has led rather to state aid, both in the form of subventions and of distribution of the proceeds of specific state-administered taxes, until in no state are the local governments entirely unaided. Unfortunately the extension of such aid has not been accompanied by any adequate consideration of a suitable division of governmental functions between the state and the localities. Nor has there been any proper recognition of the possible effect of such revenue distribution on local independence. The present division of revenue sources between state and local governments in the United States is the outcome of haphazard growth. Nevertheless it has been determined largely by administrative efficiency. Consequently it would be a step backward to turn state-administered sources of revenue over to local administration. Division of revenues according to need must be accomplished in some other way, and a number of other ways have been found.

The most obvious step is to remove local tax limits, especially property tax limits, thus permitting the municipalities to increase their revenues through higher tax rates. The separation of sources of state and local revenues is another possibility; with separation the state develops for its own use such taxes as income and corporation taxes and leaves to the local jurisdictions, which are unable to administer such taxes, the entire proceeds of the general property tax. Locally administered sources may also be increased through state regulation of amounts and methods of levy. Finally, the state may return state revenues to the local divisions, either redistributing all or a part of specific state-administered taxes, or offering subventions from general revenues.

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All of these methods have been, and are being, used in the effort to attain more equitable division of revenue sources. The municipalities have, for the most part, urged the further distribution of state tax revenues, even where such distribution has been accompanied by material restrictions on local freedom; for the administration in office is not unmindful of the blessings of revenue which does not increase the local tax rate. At the same time the local authorities have resented state interference, and some have preferred the greater freedom which results from the increased local property taxes made possible by separation of sources or the repeal of a tax-limit law.

Tax limits are of many kinds. They are frequently provided for in state constitutions; even more frequently they appear in the state statutes and municipal charters. In some states only the county rate is restricted, or the rate for cities of a given size; in others it is the rate for a definite purpose, such as roads or schools, that is limited; but in many states the restrictions are thorough, applying to all taxing jurisdictions for all purposes. The limit usually takes the form of a fixed rate —ten or twenty mills perhaps—on the assessed value of taxable property. More rarely it is in the form of a small percentage increase over the taxes of the preceding year, Frequently the limits are so generous that even with low assessment rates the local authorities are in no way handicapped by the restriction; also frequently they form a very real restriction, leading (where no simpler form of evasion offers) to the accumulation of dangerously large debts.

There has been agitation against tax limits wherever the tax revenue under the limit has been inadequate. And such agitation has brought results. The existing tax limits have been raised in about half of the states in the past ten years, including Ohio, where, all things considered, the tax limitations have been most drastic. In Massachusetts, tax limits were abolished for all municipalities except Boston in 1913. And tax limits were abolished for all municipalities in New Jersey in 1914. The removal of all tax limits is the exception, however. At present tax limits appear in one form or another in the constitutions or statutes of all but four states (Connecticut, Maine,

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New Jersey and New Hampshire), and in these states they appear occasionally in city charters.

Tax limits hold an important place in the movement to reform local property assessments, for they are generally accepted as serving a double purpose,—forcing full-value assessments on the one hand, and protecting the taxpayers on the other hand, when assessments have been increased to full value. The actual achievements of this reform have, in this respect, fallen far short of expectations, but there is no evidence that the undeserved popularity of tax limits is abating. Only in rare instances is there popular disapproval of such measures. However much they may handicap the local administration, the taxpayer regards them, not as unwarranted state legislative interference, but rather as his only effective protection against extortionate taxes. This is clearly demonstrated by the appearance of tax-limit provisions in home-rule charters.

The dangers of tax limits are obvious. It is true that taxpayers uphold them as a safeguard against high tax rates,—and to some extent they do check expenditures; but a fixed rate is an arbitrary thing and must fail, inevitably, to measure the amount of desirable municipal expenditure.[1] To some extent, also, such limits have increased assessment rates, but hardly enough to justify the unfortunate consequences of arbitrary cuts in local expenditures and of accumulating debts.[2] There is, nevertheless, little effort to solve the problem of local revenue shortage by the repeal of such restrictions. Nor would their repeal be a satisfactory solution where taxes are already high. It is usually important not only to get more revenue, but, in justice to the owner of real estate, to get it from a greater variety of sources.

The repeal of other restrictive legislation, such as limitations

[1] This does not, of course, apply to the more flexible administrative control prevailing in Indiana. Here changes in rates may be made, subject to the approval of the State Board of Tax Commissioners. Similar control is exercised by tax commissions of Colorado and New Mexico.

[2] For a discussion of the failure of tax limits see R. C. Atkinson, *The Effects of Tax Limitation Upon Local Finance in Ohio 1911 to 1922* (1922), pp. 119–127; and New York State Joint Legislative Committee on Taxation and Retrenchment, *Report*, 1920, pp. 106–108.

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on local license taxes, would occasionally contribute something toward solving the municipality's financial problem; but the proceeds of such sources as local districts can administer effectively (other than property taxes) are small, even in the absence of legislative restrictions.

Separation of the sources of state and local revenues has in some cases increased local revenues without any corresponding loss to the local taxpayer. In practice, separation has meant that the state government has developed special property and income taxes to supply state needs and has left the general property tax (or at least the tax on real estate and tangible personalty) to the local divisions. Consequently the local districts have been able to increase their tax rates by the amount of the former state rate without increasing the amount of the tax paid by the owner of real estate. In some instances valuable real estate has been withdrawn from local taxation as a result of separation. In California, e. g., the "operative property" of public utilities was thus withdrawn. For the most part, however, the local districts have been able to obtain more revenue than they have lost without raising the local tax rates on the remaining taxable property above the combined state and local rates existing prior to separation.

Higher local taxes have not been the chief aim of separation. On the contrary, the fact that local tax rates have risen to equal the former combined state and local rate has been pointed out as a defect in this particular reform. The hoped-for gains of separation have been (1) better local assessments,—one of the incentives to underassessment, the state tax, having been removed; (2) greater local freedom in taxation,—freedom especially to exempt personal property and even real estate improvements; and (3) a fairer division of taxable property,—the corporation with a state-wide business being taxed by the state, and real estate, the value of which is more directly dependent on local conditions, being subject only to local taxation. This last gain is difficult to defend, owing to the varied and complex origin of property values. Increased revenue, through the development of special taxes, has usually accompanied separation. In fact, separation has arisen with the need

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of more revenues and the adoption of special state-administered taxes. Such taxes can be, and are, developed without separation, however, and this is not ordinarily claimed as one of its virtues.

Complete separation of sources has existed in Pennsylvania since 1885, in California since 1910, in North Carolina since 1922, and has been adopted in Virginia beginning with 1927. We find the Virginia State Tax Commissioner confident that separation is a growing movement, and the solution of the problem of underassessment of property subject to the property tax.[1] He would seem to have overlooked the fact that such separation has been tried and abandoned in Connecticut (1891–1910), in New York (1906–1911) and in Delaware (1878–1921), because of the pressure for larger state revenues; and the further fact that in those states where separation still obtains, the hoped-for full-value assessments have not been achieved. In California the average county assessment rates vary from twenty to sixty per cent.[2] And assessments are certainly no better in Pennsylvania. Wisconsin, on the contrary, with nearly half of the state tax revenue coming from the general property tax, probably has the best assessments of any state. Improvement in local assessments comes with increasing state supervision and not with separation.

Considering the second advantage claimed for this reform, the local districts have not shown much inclination to exercise such increased financial freedom as separation has given them. Such freedom has consisted mainly of the privilege to exempt personalty or improvement or to tax them at lower rates, and the continuous pressure for larger revenues precludes experiments of this nature.

The essential gain of separation has been the increased revenue available to the state because of the more effective state administered corporation and income taxes which have replaced the state general property tax; also the increased revenue available to the local districts from the higher local tax rates made

[1] *Address to the Commissioners of Revenue*, by C. H. Morrissett, 1926.

[2] According to the California State Controller. National Tax Association, *Proceedings*, 1926, p. 289.

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possible by the withdrawal of the state property tax. In defense of separation it should be said that the often repeated argument that it has led to extravagant state expenditures in California because such expenditures are met from corporation taxes is not convincing when all of the facts are reviewed.[1] It is also doubtful whether the increased revenue available to the local districts has been sufficient to encourage extravagance on their part, especially in view of existing tax limits. On the contrary, the local property tax (at least as it is administered locally without state supervision) is often inadequate for local support.

The really serious objection to separation is that this particular division of sources does not guarantee the state or the municipalities revenue in proportion to their needs. The division has been made, necessarily, on the basis of administrative efficiency, and while this is itself a gain, it does not follow that the resulting division of revenues will be in proportion to the cost of the usual state and local functions.

It is apparent that there is little tendency to develop the two reforms in revenue systems—repeal of tax limits and separation of sources of revenue—which might increase the local income from the general property tax and at the same time increase local freedom in revenue matters. State governments are less dependent than formerly on the general property tax (although the actual amount of the state property tax nearly tripled in the fifteen years 1910 to 1925), but there is no movement toward complete separation. Separation is only one

[1] It is true that state taxes are high in California, the tax of $15.91 per capita in 1925 being exceeded in only four other states (Delaware, Nevada, Oregon and Washington) in that year. All of these four states, however, draw on the general property tax for state revenues, two of them obtaining more than half of their tax revenue from this source. Moreover, more than half of the states had higher per capita taxes in 1925 than Pennsylvania, the one other state which had enjoyed separation for some years previous to this. It appears further that California state taxes were high in 1910, the last year in which California drew on the property tax for state support. In this year 80 per cent of state taxes came from the general property tax; yet the per capita state tax in California was exceeded in amount in this year in only one other state—Nevada. Further, during the period of separation, 1910 to 1925, the increase in per capita state taxes was greater in forty-one other states than in California.

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phase, and not an essential phase, of the transition from local to state tax administration.

Turning to those forms of financial aid which tend to limit local power, three types may be recognized: (1) locally-administered taxes the levy of which at fixed and uniform rates is required by the state; (2) state-administered taxes which are returned, at least in part, to the municipalities; and (3) subventions from the general revenues of the state. Combined, these form a substantial proportion of local revenues.

TABLE 2

LOCAL TAX REVENUE FROM STATE-CONTROLLED SOURCES

Date	Total Local Tax Revenue	Total From State-Controlled Sources	State-Controlled Local Taxes	State-Administered Taxes	Subventions
			Thousands of Dollars		
1902	$ 763,372	$104,383	$39,549	$ 6,552	$58,282
1912	1,447,930	165,898	44,049	15,978	105,871
1925	4,581,305	560,343	33,079	186,640	340,624
			Per Cent		
1902	100.0	13.7	5.2	.9	7.6
1912	100.0	11.5	3.0	1.1	7.3
1925	100.0	12.2	.7	4.1	7.4

Local taxes, the levy of which is required by the state, form the least important group from the point of view both of revenue involved, and of degree of central control. The reasons for such control are almost as various as the taxes themselves. The use of local taxes as a source of state revenue is occasionally the explanation. In a number of instances when the state has specified the rates of local licenses it has required, in addition, that from one-fourth to one-half of the proceeds shall be paid over to the state government. In the majority of cases, however, the state has not shared in the revenue from these taxes, nor have the restrictions been in the nature of maximum taxes, either for the protection of the taxpayer or of some jealously guarded source of state revenue. Rather they have represented attempts on the part of the central government to

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TABLE 3

PERCENTAGE OF LOCAL TAX REVENUES OBTAINED FROM STATE-CONTROLLED SOURCES IN THE DIFFERENT STATES, 1925 *

Total From State-Controlled Sources		State-Controlled Local Taxes		State-Administered Taxes		Subventions	
Rhode Island	1.9	California	—	Illinois	—	Kansas	.8
Illinois	3.1	Delaware	—	Kentucky	—	Rhode Island	1.8
North Carolina	3.5	Florida	—	New Mexico	—	Oregon	2.0
Oregon	4.8	Idaho	—	North Carolina	—	Florida	2.1
Iowa	5.0	Illinois	—	Rhode Island	—	Ohio	2.4
Florida	6.2	Kansas	—	Tennessee	—	Illinois	3.1
Missouri	6.3	Kentucky	—	Utah	—	Texas	3.2
West Virginia	6.4	Maine	—	West Virginia	—	Iowa	3.3
Idaho	6.9	Maryland	—	Washington	.1	North Carolina	3.4
Kansas	6.9	Massachusetts	—	Louisiana	.7	Connecticut	3.8
North Dakota	7.0	Missouri	—	Missouri	.9	Idaho	3.8
Ohio	7.0	New Hampshire	—	Indiana	1.0	New Hampshire	3.9
Texas	7.3	North Dakota	—	Minnesota	1.1	Oklahoma	4.0
Indiana	7.4	Oregon	—	Maine	1.2	Montana	4.5
Montana	7.7	Pennsylvania	—	Arizona	1.3	Massachusetts	4.9
South Dakota	8.5	South Carolina	—	Iowa	1.5	South Dakota	5.2
Maryland	8.8	Tennessee	—	Maryland	1.5	Colorado	5.3
California	9.1	Utah	—	Vermont	1.5	Missouri	5.4
Connecticut	9.1	Vermont	—	North Dakota	1.6	North Dakota	5.4
Colorado	10.2	West Virginia	—	South Dakota	1.8	Indiana	6.2
Pennsylvania	10.3	North Carolina	.1	Pennsylvania	2.0	California	6.4
Tennessee	11.4	Rhode Island	.1	Montana	2.5	West Virginia	6.4
Washington	11.6	Texas	.1	Virginia	2.5	Maryland	7.3
Minnesota	12.0	Wisconsin	.1	California	2.7	New York	7.5
Oklahoma	12.6	Indiana	.2	Oregon	2.8	Nebraska	7.9
New Mexico	13.3	Iowa	.2	Idaho	3.1	Mississippi	8.1
Nebraska	13.4	New Jersey	.2	Colorado	3.5	Pennsylvania	8.3
Michigan	14.3	Nevada	.4	Ohio	3.9	Wisconsin	8.6
Nevada	14.5	Washington	.4	Texas	4.0	Michigan	9.1
Kentucky	15.0	Connecticut	.5	Florida	4.1	New Mexico	9.3
Arizona	15.2	Oklahoma	.6	Nevada	4.1	Nevada	10.0
Maine	15.3	Minnesota	.7	Michigan	4.4	Minnesota	10.2
New Hampshire	15.4	Montana	.7	Connecticut	4.8	New Jersey	10.5
New York	15.6	Nebraska	.7	Nebraska	4.8	Arizona	10.8
Mississippi	15.8	Ohio	.7	South Carolina	5.0	Georgia	10.9
New Jersey	16.1	Alabama	.8	New Jersey	5.4	Washington	11.1
Massachusetts	17.3	Georgia	.8	Wyoming	5.7	Tennessee	11.4
Vermont	17.8	Michigan	.8	Kansas	6.1	Arkansas	11.8
Wisconsin	18.4	Wyoming	1.2	Mississippi	6.1	South Carolina	13.6
South Carolina	18.6	Arkansas	1.3	New York	6.3	Alabama	13.7
Louisiana	19.0	Louisiana	1.3	Oklahoma	8.0	Maine	14.1
Utah	20.7	Colorado	1.4	Alabama	9.1	Delaware	14.4
Georgia	23.1	South Dakota	1.5	Wisconsin	9.7	Kentucky	15.0
Alabama	23.6	Mississippi	1.6	Arkansas	11.2	Vermont	16.3
Arkansas	24.3	New York	2.5	Georgia	11.4	Louisiana	17.0
Virginia	24.3	Arizona	3.1	New Hampshire	11.5	Virginia	17.3
Delaware	30.6	New Mexico	4.0	Massachusetts	12.4	Utah	20.7
Wyoming	34.5	Virginia	4.5	Delaware	16.2	Wyoming	27.6

* Since records of local revenues are incomplete these percentages are necessarily only approximations. It is believed, however, that they are sufficiently accurate for purposes of comparison.

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force the local districts to tax themselves for their own good. The more important of these taxes have been poll taxes for roads and schools, insuring a certain minimum for such functions without imposing burdensome subventions on the state; heavy licenses to control the liquor traffic; and, more recently special taxes on corporate property and low rates on intangibles in a more or less successful endeavor to make the taxes on property at once more lucrative and more equitable. Few of these taxes offer the local governments sources of revenue not already available, but the uniform rates and state supervision do make more effective administration possible, with a consequent larger yield.

All in all, these efforts have come to little. With prohibition, the one really large source of revenue was removed. Poll taxes are not growing rapidly, and special taxes on intangibles and on corporations are just a step in the transition from local property to state income taxes. Within the year the tax in this group yielding the largest sum (28 per cent of all state-controlled local tax revenue in 1925), the New York bank-stock tax, has been replaced by a state-administered bank income tax.

TABLE 4

SOURCES AND AMOUNTS OF STATE-CONTROLLED LOCAL TAXES

Source	1902	1912	1925
	Thousands of Dollars		
Total	$39,549	$44,049	$33,079
Poll Tax	7,911	6,198	10,641
Liquor License	28,117	29,685	.....
Other Licenses	646	1,163	1,063
Corporation Tax	2,843	4,920	9,521
Tax on Intangibles	....	1,917	9,184
Inheritance Tax	32	166	2,670
	Per Cent		
Total	100.0	100.0	100.0
Poll Tax	20.0	14.0	32.2
Liquor License	71.1	67.4	..
Other Licenses	1.6	2.6	3.2
Corporation Tax	7.2	11.2	28.8
Tax on Intangibles	..	4.4	27.7
Inheritance Tax	.1	.4	8.1

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In none of the states did the municipalities obtain as much as five per cent of their revenue from such taxes in 1925, although in 1902 such local taxes supplied more than five per cent of local tax funds in nearly half of the states, and more than twenty per cent in two states. In twenty states there were no such taxes in 1925 as compared with eight states in 1902. The difference is accounted for largely, but not entirely, by the disappearance of the liquor tax. Even excluding the liquor tax the percentage of local revenue from these taxes was larger in 1902 than in 1925.

Thus these taxes have become of little importance from the point of view of revenue. They have never represented any important control. Local liquor licenses were fully as high, if one may judge by the proceeds, in the states without central control as in those with such control. The purpose for which the other taxes in this group shall be spent is specified with

TABLE 5

PURPOSE OF STATE-CONTROLLED LOCAL TAXES

Purpose	1902	1912	1925
	Thousands of Dollars		
Total	$39,549	$44,049	$33,079
Unassigned	28,385	36,501	22,714
Schools	4,287	4,827	6,644
Roads	3,585	2,387	3,340
Other	3,292	334	381
	Per Cent		
Total	100.0	100.0	100.0
Unassigned	71.8	82.9	68.7
Schools	10.8	11.0	20.1
Roads	9.1	5.4	10.1
Other	8.3	.7	1.1

increasing frequency, but while this expedient may have soothed the consciences of state legislators when state school subventions have been meagre it would seem to have accomplished little more. A comparison of the sums obtained from poll taxes for roads and schools with the total local expenditures for these

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purposes suggests that, while this requirement may have—and doubtless has—enforced a minimum here and there, in the vast majority of cases the local districts have been prepared to spend for their roads and schools many times the amount that the state has demanded.

Finally, no large amount of redistribution of tax revenues has taken place. Most of the taxes have gone to the districts where they have been collected. The school poll taxes are sometimes redistributed to the school districts within the county in proportion to school children or such other criteria as may have been selected for the distribution of county school funds, but they always remain within the county in which they have been collected. Corporation taxes are usually distributed in proportion to the tangible property of the corporation or in proportion to the shares of such corporations held by residents of the different local divisions. This is a deliberate effort to return the proceeds of such taxes in the same proportion as the general property tax on corporate property (which the corporation tax has replaced) would have been distributed, and represents no reapportionment of wealth. There is obviously little opportunity for any such reapportionment as long as administration remains primarily local.

TABLE 6

REDISTRIBUTION OF STATE-CONTROLLED LOCAL TAXES

	1902	1912	1925
		Thousands of Dollars	
Total	$39,549	$44,049	$33,079
Returned Where Collected	39,253	40,691	29,142
Redistributed	296	3,358	3,937
		Per Cent	
Total	100.0	100.0	100.0
Returned Where Collected	99.3	92.4	88.1
Redistributed	.7	7.6	11.9

The state-administered tax which is returned to the municipality is of much more importance than the state-controlled,

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locally-administered tax. Not only are the amounts involved much larger, but the state-administered taxes are increasing at a rapid rate. They represent the newer and larger tax sources. Furthermore, they indicate a more far-reaching control.

This is a comparatively recent development. In 1902 participation by the local governments in state-administered taxes was confined almost entirely to a few New England and Middle Atlantic states where elaborate systems of corporation taxes had removed certain corporate and intangible property from the local property tax. As a result the states had shared the proceeds of these taxes with the municipalities. These corporation taxes account for more than nine-tenths of all state taxes returned to local districts in this year. In 1912 the taxes distributed were still mainly corporation taxes, but they appeared in a larger number of states. In 1925 the yield of corporation taxes distributed to local districts was outstripped by the yield of both income and motor vehicle taxes, and the yield of gasoline taxes, which taxes did not exist in 1912, was not far behind.

TABLE 7

SOURCES OF STATE-ADMINISTERED TAXES DISTRIBUTED TO LOCAL GOVERNMENTS

Source	1902	1912	1925
		Thousands of Dollars	
Total	$6,552	$15,978	$186,640
Income Tax	....	1,168	59,832
Corporation Taxes	6,387	13,307	37,390
Taxes on Intangibles	....	255	417
Inheritance Tax	165	333	720
Motor Vehicle Tax	....	905	58,246
Gasoline Tax	....	....	28,837
Miscellaneous Licenses	....	10	1,198
		Per Cent	
Total	100.0	100.0	100.0
Income Tax	..	7.3	32.1
Corporation Taxes	97.5	83.3	20.0
Taxes on Intangibles	..	1.6	.2
Inheritance Tax	2.5	2.1	.4
Motor Vehicle Tax	..	5.7	31.2
Gasoline Tax	..	..	15.3
Miscellaneous Licenses	..	.1	.7

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In 1926 the revenues paid over to the local divisions from state-administered taxes exceeded two hundred million dollars. In this and the following year several states have been added to the list of those sharing motor-vehicle or gasoline taxes with the local governments. New York has recently converted the bank-stock tax into an income tax and has substituted state for local administration, the proceeds of the tax being returned to the local governments. Minnesota has added a tax on land banks to her locally shared taxes, and Louisiana has added a locally shared tax on tobacco. Thus the list grows.

The outstanding reason for the return of all or a part of a state-administered tax to the local governments is that the larger part of these taxes has replaced local taxes. The income tax in New Hampshire, Massachusetts, New York and Wisconsin, e. g., replaces the local property tax on intangibles. Most of the corporation taxes returned to the local districts were, in origin, substitutes for local taxes on corporate stocks and bonds, and tangible personalty of corporations or corporate real estate. And motor-vehicle licenses have frequently taken the place of the property tax on motor vehicles.

When the tax has not been returned as compensation for the loss of local revenues the use of the proceeds is almost always specified. This is notably true in the cases where the gasoline tax is shared with the local jurisdiction. In other words, the states have returned special taxes to the localities either as compensation for local revenues of which the new tax has deprived them, or as subventions for functions for which the state has assumed some responsibility. In consequence, it may be expected that such revenues will continue to increase as tax administration is transferred from local to state authorities, and as the state assumes increasing responsibility for hitherto local functions.

Most of the new tax revenues distributed to the localities are earmarked for specific uses. The proceeds of the motor vehicle and gasoline taxes are to be used almost exclusively for highways. Income, corporation and inheritance tax proceeds must frequently be put into the school fund. The poor, and police and fire departments are occasionally remembered also.

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Even when the primary purpose of returning the tax is to compensate the local division for a former local source, the state sometimes directs the purpose of its expenditure. The proportion of such taxes for which the use is specified by the state has increased steadily until it has reached more than half of the total.

TABLE 8

PURPOSE OF STATE-ADMINISTERED TAXES DISTRIBUTED TO LOCAL GOVERNMENTS

Purpose	1902	1912	1925
		Thousands of Dollars	
Total	$6,552	$15,978	$186,640
Unassigned	5,877	13,546	86,905
Schools	547	1,925	12,946
Roads	..	213	86,691
Other	128	294	98
		Per Cent	
Total	100.0	100.0	100.0
Unassigned	89.7	84.8	46.6
Schools	8.3	12.1	6.9
Roads	..	1.3	46.4
Other	2.0	1.8	.1

The local district is not ordinarily handicapped by these restrictions. If it must use the income tax for schools and the gasoline tax for roads, at least its property-tax revenues are freed to that extent for other purposes. The state sometimes goes further, however, and directs the expenditure of these funds in detail. Moreover, less than half of these tax revenues are returned where they are collected. The remainder are redistributed by state authorities in various ways. In the case of corporation taxes, taxes on intangibles, and income taxes, the redistribution is usually designed to return the revenue approximately in proportion to the distribution of the property taxed. New York, in returning the income tax in proportion to assessed value of real estate aims to achieve higher local assessments as well. Taxes returned for school purposes are usually distributed in the manner of ordinary subventions in proportion to the number of school children, number of teachers, or some

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other criterion of need; taxes returned for roads are often distributed in proportion to highway mileage.

TABLE 9

REDISTRIBUTION OF STATE-ADMINISTERED TAXES RETURNED TO LOCAL GOVERNMENTS

	1902	1912	1925
	Thousands of Dollars		
Total	$6,552	$15,978	$186,640
Returned Where Collected	558	3,121	78,345
Redistributed	5,994	12,857	108,295
	Per Cent		
Total	100.0	100.0	100.0
Returned Where Collected	8.5	19.5	42.0
Redistributed	91.5	80.5	58.0

Less than fifty million dollars of state-administered tax revenue were returned in 1925 to the local districts where such taxes were collected without restriction as to the purpose of expenditure. Less than one million dollars of this sum came from taxes which had not replaced local sources. For the most part the state has redistributed the proceeds of these taxes without regard to the place of collection or it has used the money as it has used subventions from general revenues,—to achieve certain minimum educational standards, to insure good roads, or to establish firemen's pensions.

The proportion of revenues obtained by the local divisions from such state taxes is still small and the resulting interference in local affairs has not, thus far, been very extensive. The chief aim of the central government has been to assist the local divisions. Nevertheless it is assistance determined according to state standards of need and it may be given or withheld as the state chooses. It is a powerful weapon of control, and one that is growing rapidly. The proceeds of state corporation, motor-vehicle and gasoline taxes can now be counted in hundreds of millions; and state income taxes, which are beyond the experimental state, tap the largest single source of revenue that there is.

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The extent to which the state shares these sources with the local divisions, and the manner in which they are shared, is of the utmost importance to the localities. There has been little attempt to adjust the sums returned to the local divisions to their actual losses. Compensation in most instances has been generous. The new taxes have ordinarily been more remunerative than the old; and the source of which the local government has been deprived has often been merely nominal, as in the case of taxes on intangibles which the local authorities utterly failed to reach.

In some instances, however, where the state has deprived the municipalities of local sources of revenue and in return has shared the revenue from the source taken over, the state has later reduced the local districts' share,—forgetting, perhaps, the original "bargain". This has occurred in the case of the Wisconsin income tax and telephone-exchange tax, and in a number of states the local divisions' share of the motor-vehicle taxes has been reduced or completely abolished, although the local districts may not tax automobiles as personal property. Thus there is a very real possibility that the local governments ultimately will get a bad bargain. Also, when the sums returned exceed the local losses, there is the possibility of careless local expenditure of these funds. There can, of course, be no serious objection to the return of the proceeds of specific taxes where these proceeds are small in comparison with local needs. If the state returns a part of the motor-vehicle tax for roads and the local districts are spending several times this amount on roads, it will not lead to extravagant road-building. It will merely result in applying more of the proceeds of the general property tax to other purposes, and may alleviate the tax burden on the property owner. And when the tax revenue returned barely compensates the local divisions for former local revenues which this new tax has replaced it is more than justified. Unless the proceeds are small, however, and the local need of revenues is pressing, the danger of local extravagance is very real. It is, therefore, important to direct the expenditure of the taxes distributed. If this is done the tax becomes in the nature of a subvention and should be treated frankly as

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such,—the amounts returned to local districts being determined by the amounts needed for the purposes specified rather than by the chance yield of a specific tax.

The subvention, or grant of money by the central government from its general revenues to the local governments for specific purposes, has never been developed in this country to the position it has attained in many European countries. It is, however, of no small importance. In seventeen states the sums thus distributed amounted to over ten per cent of local tax revenues in 1925, rising in one instance to more than twenty-five per cent. Further, the control exercised by the state through this means is often more far-reaching than the amount of money distributed indicates, since local districts are often required to achieve certain state-dictated standards at their own expense before receiving state money, and the cost of achieving these standards usually far exceeds the amount of the subvention. The subvention is, consequently, a powerful agent of central control.

The use of subventions, especially for education, is of long standing; and while the sums distributed are increasing rapidly the growth of local tax revenues is, for the most part, keeping pace with them. They have always been used largely for common schools and form a substantial part of the revenues for this purpose. In recent years they have been used widely, also, for highways, although the proceeds of the gasoline and

TABLE 10

PURPOSE OF STATE SUBVENTIONS

Purpose	Thousands of Dollars		Per Cent	
	1902	1925	1902	1925
Total	$58,282	$340,624	100.0	100.0
Schools	45,373	254,112	77.9	74.6
Roads*	..	63,119	..	18.5
Other	12,909	23,393	22.1	6.9

* No record of any subventions for roads can be found for 1902, although small sums may possibly be included in "other".

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motor-vehicle taxes turned over to the local districts for road expenditures exceed the road subventions from general revenues.

The central government has two ends to gain from the subvention. In the first place it may, by this means, insure a minimum standard in the performance of certain locally-administered functions; for the central government usually goes beyond the mere naming of the purpose for which the money is to be spent and either directs the expenditure in detail, or, more often, insists on certain standards of local achievement as a condition of receiving these aids. In the second place, in so far as the criteria for giving aid are measures of local need, the central government may redistribute wealth, taking large sums from the wealthier districts, from which the bulk of the tax revenues necessarily comes, and paying them over to the poorer districts where the need is ordinarily greater. In either case the use of the subvention can be justified only on the ground that the activities thus fostered are of more than local concern.

The type of state control which has accompanied the distribution of state funds to local districts has been administrative rather than legislative. Such control began in the field of education and has been carried farthest in this function. It has been achieved largely through the use of state school aid. Administrative control is apparent also in the fields of charities, corrections, health and road-building, although the states have been more inclined to spend state funds for these purposes directly, than to supervise local expenditure of state subventions. In the field of finance itself state administrative control is increasing rapidly. Nearly every state has some form of audit of local accounts, although only four or five have really effective supervision. Moreover, state tax commissions in nearly every state have some discretionary control of local tax assessments. Such control has perhaps gone farthest in Indiana where the State Board of Tax Commissioners can now review all local bond issues in excess of $5000 and all tax levies on petition of ten taxpayers.

This extension of state administrative control resembles very closely the development of national administrative control of local governments which took place in England during the

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nineteenth century. As described by Sidney Webb, "The National Government, in the course of the three-quarters of a century from 1832 successively 'bought' the rights of inspection, audit, supervision, initiative, criticism and control, in respect to one local service after another, by the grant of annual subventions from the national exchequer in the aid of local finances, and therefore, in relief of the local ratepayer."[1]

TABLE 11

COMPARISON OF PERCENTAGES OF LOCAL EXPENDITURES PAID FROM CENTRAL GOVERNMENT FUNDS IN ENGLAND AND WALES AND IN THE UNITED STATES

	England and Wales	United States
Total	18.1†	9.9‡
Education	58.7‡	13.3‡
Police	39.2§	....
Highways	37.8‖	12.3‡
Poor Relief	14.0‖	....

* Data for England and Wales from *Whitaker's Almanack* and *The Statesman's Year Book*. Figures for both countries cover both subventions or grants and specific taxes returned. Amounts for police and poor relief in this country amount to less than one-tenth of one per cent.

† 1923.

‖ 1924.

‡ 1925.

§ 1926.

Control in this country thus far has been more limited. The sums given have been relatively less and aid has been followed by rather less supervision. The tendency is unmistakable, however, and instances can be cited where the percentage of local expenditure met from state taxes exceeds the average for England and Wales. Thus in two states, Wyoming and Delaware, between twenty and twenty-five per cent of all local expenditures were met from state taxes in 1925. In Delaware nearly two-thirds of all education costs are paid out of state revenues. About half of local highway expenditures (exclud-

[1] S. Webb, *Grants in Aid*, 1920, p. 6.

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ing city streets) come from state funds in Arkansas, Delaware, Georgia and Utah.

Increasing state subventions, together with the rapidly mounting sums from state-administered taxes distributed to the local districts indicate growing interference in what were formerly distinctly local functions. These do not tell the whole story, however. The state may choose to control a hitherto local function, not through conditional subventions to local authorities, but through the direct expenditure of such money by state officials. That is, the state may choose to build highways rather than to subsidize the counties for county roads, and to operate state hospitals in preference to aiding county institutions. If this is done the amount of state subventions may diminish without any corresponding diminution of state control. The state has ceased to direct local functions. It has taken them over.

This process is apparent in the field of educational activities, in state highway construction, in the growth of state charitable institutions, state pension systems, and state police, to name the more obvious. The fact is, of course, that most governmental activities originate locally, and when these local activities become of more general concern the central government first supervises and then gradually assumes them. This is necessarily a continuous process. That which is primarily of local importance today is of more than local importance tomorrow. There are no local functions *per se*, either in practice (except for short periods of time) or in the eyes of the law. Local governments exercise only such powers as are delegated by the central government, and occasional home-rule provisions—narrowly interpreted as they are by the courts—protect them but little. It does not follow, of course, that the activities of local governments are declining. In fact the new state activities duplicate or supplement local activities more often than they replace them. State highway construction has not brought any apparent reduction in local highway costs. On the contrary it has added to the local traffic problem.

It is very difficult to measure the extent to which such transfer of functions from the local to the central governments is

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taking place, but the shifting proportions of state and local expenditures offer a clue. In 1902 only three per cent of all highway disbursements were expended by state authorities, whereas in 1925 more than thirty per cent of such costs were paid directly by the state. If city street costs are not included in highway disbursements the percentage of state expenditures rises from six per cent in 1902 to fifty-four per cent in 1925. This is the most striking instance of the tendency of the state to take over, at least in part, what have hitherto been essentially local functions. In education the shift is small during this period; but education has long been considered as primarily a state function though the cost has remained largely a local burden. For all functions combined, state expenditures rose from eleven per cent of all state and local expenditures in 1902 to nineteen per cent in 1925. Clearly the activities of the central government are increasing relatively as the country develops.[1]

This is, on the whole, a mark of progress. The state government is able to handle activities affecting a wider jurisdiction than the county or the town better than the local unit. It is important, however, to guard against usurpation by the central government of activities which the local district can handle as well or better, solely because the central government has the greater financial resources.

Reviewing briefly the tendencies in state and local finance during the past twenty-five years and their relation to state and local functions, certain outstanding changes are apparent. First of these is the rapid growth of state-administered taxes which has come with the development of new taxes to supplement, and to some extent to replace, the tax on general property. Secondly, this transfer of tax administration from the local to the central government has not been accompanied by an equal transfer of other functions, and it follows that the states' share of revenues has increased more rapidly than the states' share of expenditures. In consequence, the local gov-

[1] For a detailed study of the growth of state activities in one state see New York State Special Joint Legislative Committee on Taxation and Retrenchment, *State Expenditures, Tax Burden and Wealth*, 1926, chap. ii.

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ernments have appealed to the state governments for assistance and the states have responded,—in some cases generously.

TABLE 12

STATE AND LOCAL EXPENDITURE AND STATE-CONTROLLED LOCAL EXPENDITURE

	Thousands of Dollars		Per Cent	
	1902	1925	1902	1925
		All Purposes		
State and Local Expenditure	$1,104,564	$6,601,202	100.0	100.0
State Expenditure	127,482	1,273,938	11.5	19.3
Local Expenditure from:				
State Subventions	58,282	340,624	5.3	5.2
State-Administered Taxes	6,552	186,640	.6	2.8
State-Controlled Local Taxes	39,549	33,079	3.6	.5
Local Revenues	872,699	4,766,921	79.0	72.2
		Education		
State and Local Expenditure	272,442	2,210,000	100.0	100.0
State Expenditure	16,030	178,270	5.9	8.1
Local Expenditure from:				
State Subventions	45,373	254,112	16.6	11.5
State-Administered Taxes	547	12,946	.2	.6
State-Controlled Local Taxes	4,287	6,644	1.6	.3
Local Revenues	206,205	1,758,028	75.7	79.5
		Highways		
State and Local Expenditure	154,316	1,750,738	100.0	100.0
State Expenditure	4,680	537,859	3.0	30.7
Local Expenditure from:				
State Subventions	..	63,119	..	3.6
State-Administered Taxes	..	86,211	..	4.9
State-Controlled Local Taxes	3,585	3,340	2.3	.2
Local Revenues	146,051	1,060,209	94.7	60.6

Unfortunately for the cause of local self-government, such state aid has for the most part involved the extension of state control. Only the repeal of local tax limits and separation of sources of state and local revenue offer the municipalities any substantial aid without increasing state supervision. Both of these have been tried. Many states have raised their tax limits, and two have repealed them during the past twenty-five years. There is little indication, however, that the local governments will receive much further help from this source in the

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near future. However undesirable tax limits may be demonstrated to be, the local taxpayer clings to them tenaciously. Complete separation of state and local revenues has been adopted by three states during this period and given up by three. Only Pennsylvania has held to it throughout. While most states are obtaining an ever-decreasing percentage of their tax revenues from the general property tax, few have had the courage to give it up entirely.

Complete separation of sources is as unusual as the complete absence of local tax limits; and even should both of these changes become general we should hardly be satisfied with a reform which increased the percentage of locally administered tax revenue from this source from the existing eighty per cent to eighty-five or ninety. We are not convinced that real estate is a sufficiently accurate measure of taxable ability for that.

State control of locally collected taxes may be dismissed as unimportant. The sums involved are small and rapidly decreasing, and the centralized control involved is negligible. It is subventions and the return of all or a part of certain state-administered taxes that deserve the most serious consideration. The percentage of local revenues obtained from subventions has remained fairly constant since 1900 but the actual amounts thus distributed have increased nearly six-fold. The amount of specific state taxes returned to the local divisions has increased twenty-eight times, and shows every sign of continuing its rapid growth for some time to come. A detailed study of the growth of such taxes would be very illuminating. The percentage of local revenues supplied by these sources was 8.5 in 1902 and 11.5 in 1925. Practically all of this represents redistribution of wealth and state control of local expenditure. If we were to add to this sum the amount of local revenues which must be spent according to state-determined standards in order that the local divisions may receive their allotment of state funds, and mandatory expenditures to which the state contributes nothing, the extent of state control indicated would be formidable; though some allowance must be made for the fact that such state control is often more nominal than real.

It is impossible to measure the growth of such control with

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any degree of precision. In some instances subventions have replaced mandatory expenditures toward which the state had formerly made no contribution. These, of course, do not represent any increase in state control. There is every indication, however, that these locally supported mandatory expenditures have, on the whole, more than kept pace with state contributions. And there can be no reasonable doubt that the states are extending their control of local activities materially through the distribution of state revenues to the local districts. If state revenues are to be returned to the local districts it is desirable that some control should be exercised. For if these funds are not apportioned according to local need there is a very real danger that some municipalities, especially those whose local revenues are adequate, will spend the state funds carelessly, since these are revenues for which the local officials are not accountable to the local taxpayer. It is important, therefore, to hold these officials accountable to the state. This argues for the use of subventions rather than the distribution of the proceeds of specific taxes, since the amount of the subvention can be adjusted better to local needs.

State control would seem to be a necessary accompaniment to the extension of state aid. Fortunately, state control is not an unmitigated evil. There is little defense for the type of state legislative interference from which our local governments, especially the cities, have long suffered. But the type of centralized control which accompanies state aid is more often the more flexible administrative control. This is not wholly counter to the home-rule movement, for home-rule provisions have been concerned chiefly with building up barriers against indiscriminate state legislative interference. Administrative control is quite a different thing. If wisely used such control protects the interests of the larger unit, and at the same time leaves ample scope for local initiative. It should be recognized clearly, however, that every extension of state aid brings with it some restriction, desirable or otherwise, of local freedom. There is the risk, too, that such aid will degenerate into a system of pauperizing doles.

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There remains to be considered the complete transfer of administration of functions from local to state officials. As has been stated previously, an increasing number of functions are of more than local importance. These, necessarily, will be assumed by the state. A wide field for local initiative remains, however. There are still a large number of activities which are primarily of local concern,—a changing rather than a diminishing group. These should be left to local control. It is important to prevent unduly rapid centralization of control simply because the state has the greater financial power; for state control, however flexible, can never be as adaptable as local, and the importance of local initiative can not be overestimated. Local governments should make the most of their limited tax resources. "New" sources of local revenue offer them no gold mines. State aid offers them no freedom. Careful spending and careful administration of their present taxes are the only means open to them. Only through prosaic efficiency and economy can local independence be maintained.

MABEL NEWCOMER.

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A WORKING THEORY OF SOVEREIGNTY II[1]

THE current assaults on the doctrine of sovereignty perform worthwhile service if they show realistically that sovereignty is not something inherent in the nature of things,—that it is not something, as Austin is wrongly supposed to have thought,[2] which exists and must exist at all times and places. It is not. It is simply a key-element in a pattern of possible organization to which actual practice may or may not conform, but which remains the only type of organization capable of sustaining what we mean by a régime of law. It is true that even an organization built on the lines of the pattern may not always function perfectly as it is supposed to do. It is also true that in a world where positive law is not organized on a world-wide scale, but where a number of independent systems of such law have grown up to jostle one another, an enormous gap is left for lawless violence to operate between them. It may be that in the present state of differences between national ideals and cultures this yawning void in the operation of positive law is inevitable and even desirable as a guarantee of freedom for beneficial adjustments. In any event, however, it would seem clear that a régime of law in the positive sense, in so far as it is realized at all, prevails only within the limits of each nation-state, and does so only because, and only in so far as, such a state is organized on the principle of sovereignty. At times internal disturbances may occur, and one law and sovereignty be violently or clandestinely displaced or supplanted by another; at other times, as is apparently now happening

[1] This is the concluding installment of Professor Dickinson's article. Part I was published in the December, 1927, issue of the POLITICAL SCIENCE QUARTERLY.—ED.

[2] This is not fair to Austin: see *The Province of Jurisprudence Determined*, 2d ed. (London, 1861), pp. 179-180. "Austin fully recognizes the existence of communities, or aggregates of men, in which no dissection could disclose a person or group answering to his definition of a sovereign."—Maine, *Early History of Institutions*, 4th ed. (London, 1885), p. 377.

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within the British Empire, the bonds of positive law may quietly wear thin and dissolve into a flimsy web of mere voluntary cooperation before the parts break completely loose into separate sovereignties; but the typical civilized nation-state, as we are accustomed to it, is normally organized under sovereignty, and normally exhibits internally the working of a single unified system of positive law.

Now there can be no doubt that a régime of positive law, where it is strictly realized, has its disadvantages as well as its advantages. It emphasizes order and stability and uniformity, sometimes at the expense of what may be thought to be justice, but almost always at the expense, to some degree, of adaptability and progress. Its mode of operation is to set human conduct into theoretically rigid grooves for the sake of certainty and predictability, and to that extent to put barriers in the way of an experimental quest by private individuals and groups for new and more satisfactory adjustments. Hence arises the familiar and age-old conflict between the claims of order on the one side and of liberty on the other,—a conflict which becomes progressively acute when extensive changes in the setting of human life and in the technique of satisfying human wants crowd upon the world and make new adjustments imperative. We are living in the welter of such a period of change today.

At such a time either of two courses seems open to the protagonists of progress. On the one hand they may direct their efforts toward bringing positive law as near as may be into step with the march of the new demands by attempting to so constitute the sovereign organ as to make it more and more delicately responsive to the new impulses within the community. Along this path, and along this path alone, will seriously emerge the challenge to improve the machinery of government, as well as the sole hope and chance of effecting such improvements; for the improvement of government means precisely the difficult task of so altering its machinery as to increase its responsiveness to the needs of the community without impairing its value as an instrument of certainty and order. If we adopt this line of approach, there will be no occasion to question the validity of sovereignty in the sense in which I have sought to describe

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it; on the contrary, the ultimate responsibility will and must be centered on the sovereign as an indispensable instrumentality of beneficial change, and attention must therefore be all the more insistently narrowed to the practical question of how the sovereign organ is to be constituted, and what forces are to be allowed to play most powerfully upon it. We must accept jural sovereignty as an essential lever of progress; we set it up that we may have a focal point from which to go forward and take up the deeper and distinct, if yet intimately related, questions of practical politics,—the questions how best to mobilize for desirable political ends the actual power, social, economic, moral, which always lies behind the jural sovereign and sets it in motion for good ends or bad.

But of course another method of approach is open. We may take a short cut, and directly challenge sovereignty itself; which, whether we realize it or not, means questioning the value of a régime of positive law as an instrument for the achievement by a community of its internal adjustments. We may be so distrustful lest the sovereign organ fall under the influence of forces which we regard as malign and mischievous that we will refuse to vest any agency with final authority to pronounce what is law, and what is not, as between contending individuals or groups or interests. As Will Rogers recently said in reference to a dispute between the United States and Mexico, we may be so sure of our case that we are unwilling to trust any judge to decide in our favor. We may, in other words, be so anxious that our favorite among the contenders shall win, that we will be unwilling to subject his chance of winning to the possibly adverse decision of an organ which can conceivably be convinced by the other side. If we take this position, we really deny the advantages of a politically organized society; we fall back on a preference for voluntary cooperation backed by the ever-present threat of an appeal to force, in case of disagreement, over a state of affairs where the force of the community is constantly mobilized behind a central law-declaring agency. We express a preference for the condition of free adjustments which at present prevails in international politics, with their voluntary treaties and diplomatic

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negotiations interspersed by occasional passages at arms, over the condition existing within highly organized nation-states, where sinister influences, by gaining control of the government, can conceivably clothe their selfish purposes with the authority of law.

The importance of the controversy over sovereignty in its current form hinges precisely on the fact that consciously or unconsciously it is a challenge to choose between these two different attitudes of approach to the disputed issues of political and social reform. Shall we admit that because of the limitations and dangers of positive law, freedom to break through it at the will of the individual who thinks himself right must be erected into a normal working-part of the system of government, available at all times, rather than kept in reserve in the form of an extra-legal power of revolution for use only as an abnormal safety-valve and last resort in exceptional cases of great oppression? This admission is in substance what is demanded by writers who are attacking the concept of sovereignty; they seem to be seeking primarily for a way to regularize and legalize disobedience to existing positive law. Of course this is really to make a régime of positive law impossible; for a law which can be legally broken at the will of the law-breaker can never be positive law in any intelligible sense. The basic question at stake in the controversy over sovereignty is therefore what our attitude shall be toward breaches of positive law, and so how we shall approach the age-old question of obedience,—the question of the *Antigone* and the *Crito*. Shall we regard disobedience as properly a normal, i. e., a *legal* thing, or as only the abnormal, and therefore illegal, though perhaps at times morally justifiable, thing? What concessions to sovereignty are inevitable if we would have the advantages of a legally ordered society?

The bluntness of this antithesis, and the quality of the choice to which it is a challenge, appear to be generally obscured and confused in the arguments of those who attack the concept of sovereignty. They would apparently have their cake of legal order and eat it, too; and they elude the difficult but essentially commonplace major issue, by almost always straddling it.

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On the one hand they insist, as Professor McIlwain points out,[1] on taking sovereignty in an altogether too pretentious and inflated sense, and then quite properly rejecting it; on the other, they refuse to perceive the value or importance of the concept in its properly limited juristic application. They insist on confusing rather than connecting legal considerations with the political and factual considerations which lie under and around law, and yet are outside of it.[2] Of course law and the forces which play upon it must always be studied together and not abstractly dissociated; but they can only be fruitfully connected if their elements of distinctness are duly recognized. Thus the question of whether a law is a "good" law,—i. e. one which we regard as beneficial to the community,—is and must always be recognized as separate and quite distinct from the question of whether it is a law at all. Again, the question of whether a law is enforceable must be kept distinct from the question of whether it is a law. Questions of whether a law is good, or whether it is enforceable, are eminently proper for consideration prior to its enactment, or as arguments for its repeal; but if, because of its badness or non-enforceability, it can really never be law at all, enactment and repeal become matters of no great consequence. We must therefore determine where to draw the line between what is and what is not law separately from, and not as a part of, the question of getting good laws and keeping clear of bad ones, if our discussion is to be fruitful and lead to practical results. If we talk of both things as if they were the same thing, we can never be sure of what it is that we are talking about.

[1] *Economica* (November, 1926), p. 259.

[2] The fact that law may be the product of certain forces operating upon and through a particular type of law-making machinery hardly justifies our saying that law *is*, or is identical with, those forces. The result requires that the forces should operate on a particular point, the sovereign, and in a way adapted to produce influence at that point, and this necessity conditions their success or failure in realizing their objectives. "When we talk about law, we think not of the influencing or pressure as a process, but of the status of the activities, the pressures being assumed to have worked themselves through to a conclusion or balance."—Arthur F. Bentley, *The Process of Government* (Chicago, 1908), p. 272. But this balance is never reached in the sense of producing law until the sovereign has spoken, and registered the point at which the balance is struck; therefore it seems an incomplete statement to say, as Mr. Bentley does, that "law is merely a manner of statement of interest-group facts," *ibid.*, p. 274.

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The capital indictments which so-called political pluralists, as represented by Mr. G. D. H. Cole and Mr. Laski in his earlier books, have brought against the concept of sovereignty seem to be all based on this fundamental confusion between legal considerations on the one hand and moral, social, and factual considerations on the other hand. Thus Mr. Laski[1] has pointed out insistently that the "will" of the so-called sovereign can never be an absolute "will,"—that it is almost certain to be controlled by some group, some interest, or combination of interests and forces within or without the community; and that the identity, the nature, of this controlling influence is of major practical consequence. So indeed it is, in connection with all questions of the goodness and badness of laws and forms of government, and with the reform of constitutional machinery; but hardly in connection with the question of the positive legality of a governmental act or pronouncement. Mr. Laski, however, goes on to argue that in the normal situation the sovereign is not really sovereign. "In sober fact, government is exerted in the interest of those who control its exercise. . . . The conclusion is forced upon us that the state permits a sinister manipulation of its power. . . . If authority is thus subject to exploitation it must be subject to limitation also. . . . Its policy is only sovereign where it is serving the sovereign purpose"—i. e., "the unique realization of the common good."[2]

In these sentences the writer seems deflected from the major issue in two directions. In the first place, in saying that the sovereign is only sovereign when serving the common good, he seems to be taking altogether too high and mystical a view of the nature of sovereignty, and of the positive law which proceeds from it. He apparently vests positive law,—i. e., a valid pronouncement of the sovereign—with a sanctity so elevated

[1] What is here said is not intended, and should not be understood, as a critique of Mr. Laski's political theories in general. I have merely chosen certain of his statements to illustrate the particular attitude toward sovereignty which I am discussing because they are such clear and definite expressions of that theory. These statements are often corrected, or balanced by other statements of a contrary tendency, elsewhere in Mr. Laski's writings.

[2] Laski, *Authority in the Modern State* (New Haven, 1919), pp. 40, 41.

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that he is unwilling to admit to it anything that is not in accordance with his own conception of the ultimate philosophical purposes of the state. This is a recurrence of the ancient unwillingness among men to admit that there can ever be discrepancy between law and justice; the unwillingness to vest with the character of law any rule which is not thought to be objectively the one and only best rule for application to the particular circumstances of the case in hand. Now of course positive law ought so far as is humanly possible to conform to the highest ideal standards of justice conceivable at the time and place; if it does not so conform, it is doubtless the civic duty of all members of the community to do their best to bring about such conformity; and if the machinery of government does not readily permit progressive improvement in this direction, it should be overhauled in order that it may do so. But even so, we cannot be purists and insist that until the necessary improvements are brought about, the bad old rule with which we are dissatisfied is not entitled to be considered as law in even the positive sense.[1] Positive law is and must always be a

[1] "Power is held not for evil but for good, and deflection from the path of right purpose ought to involve the withdrawal of authority for its exercise."—Laski, *Authority in the Modern State*, p. 46. Both Grotius and Kant grappled with this problem and reached the opposite conclusion. The passages from Grotius are as follows: "There are some who assert that the people should obey the king when he governs rightly, but that when the king rules ill he is subject to the people. Now if those who reason thus were to say that things which are manifestly iniquitous ought not to be done though commanded by the king, they would say what is true. . . . But this does not carry with it any right of legal command or compulsion on the part of the people." (*De Jure Belli ac Pacis*), bk. I, chap. iii, § 9. "In most governments the good of the governed is the object. . . . But it does not follow that therefore the people are legally superior to the king; for guardianship is instituted for the good of the ward and yet the guardian has legal authority over the ward. Of course, in the case of guardianship, the guardian, if he neglects his duty to his ward, may be superseded; but this is no argument that kings may be legally removed, because there is this important difference, that the guardian has a legal superior [i. e. the state], but in political government, because we cannot have an infinite gradation of superiors, we must stop at some person or body whose transgressions, having no superior legal judge, are the province of God alone" [i. e., as we should now say, of morality].—*Ibid.*, bk. I, chap. iii, § 8. "If the people intended to have a share in the government along with the king, such limits ought to be assigned to the power of each as may easily be recognized by a proper legal distinction

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thing of rough and ready adjustments; much of convenience, policy, compromise, doubtful experiment, inevitably enter into its make-up. All the members of the community will by no means be able to agree on what justice in the highest sense is, or on what particular demands it makes in any given situation; meanwhile if they are not to fight out their differences, there must be some rule to settle them by. We can never proceed toward getting the best rule until we first consent that there shall at least be a rule, and we will never consent that there shall be a rule if we insist on having what we privately regard as the best rule, or else on having no rule at all.[1] We must

of persons, places and matters. But the goodness or badness of an act, which are often matters of great doubt especially in political affairs, are not a fit ground of distinction to supply the basis for such a distribution of authority. The most extreme confusion will follow if the king and people both claim jurisdiction of the same matter on the basis of a charge of good or evil conduct."—*Ibid.*, bk. I, chap. iii, § 9. In other words, the question of whether legal authority exists in the legal sovereign cannot be made to depend upon a judgment as to the goodness or badness of his acts by a person or persons who otherwise do not constitute a part of the sovereign organization. The same point is made by Kant, who says that under a constitution where the people do not form a part of the sovereign body, "they do not have the right to determine by their judgment how it is to be administered, for suppose they had such a right, and that it was directly opposed to the judgment of the actual sovereign, who would there be to decide with which of them the right lay? . . . . There would therefore have to be another sovereign above the sovereign to decide between it and the people; but this is a contradistinction."—"Principles of Politics," trans. by Hastie, in *Eternal Peace and Other Essays* (Boston, World Peace Foundation, 1914), p. 44. But of course a legal right of resistance through the exercise of electoral machinery may be reserved to the people under constitutional law: "A political constitution under which the people by their representatives in Parliament can legally resist the executive power and its representative ministers is called a limited constitution."—Kant, *Philosophy of Law,* trans. by Hastie (Edinburgh, 1887), p. 180. Of course both Grotius and Kant were dealing not with the question of individual resistance, but with that of organized revolt by the people under a constitution whereby they were not legally entitled to a voice in the government. But the central point at issue in both cases is substantially the same — i. e., whether or not the fact that the legal sovereign fails to rule in accordance with the common good gives a *legal* right of disobedience to persons otherwise not entitled to participate in the exercise of sovereignty.

[1] "It does not matter whether the common good is recognized by an existing state. My duty is to act as though it ought to be recognized. My citizenship implies conduct on my part which attempts the enforcement of that recognition where it is denied. I may, of course, in such action encounter the hostile forces of the state."—Laski, *A Grammar of Politics* (New Haven, 1925), p. 96.

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therefore be willing to allow the character of positive law to much that we might well wish were otherwise; and this involves no disrespect to the nature of law properly conceived. It is too late to regard law as a Heaven-born goddess, or as other than a matter of human convenience. Unless we are sheer anarchists, a rule sanctioned by the highest authority in the state is ordinarily preferable to no rule at all, until we can get a better one; and if we feel that because of exceptional circumstances this is not so in a particular case, then we must frankly face in that special case the moral or social issue of revolution, and not hide our heads in the sand by pretending that we are only upholding law when we are resisting the ordinances of the authorized law-declaring organ of the community.

In the second place, the language quoted from Mr. Laski seems to show a certain confusion in refusing to regard as law a rule proclaimed by the sovereign organ whenever such a rule can be thought to result from selfish pressure brought to bear upon the sovereign by contending interests. We get off the track if we proceed to say that such a rule is in reality nothing more than an expression of the "private" will of the strongest special interest, on the ground that the interest exerting the decisive force is really the sovereign. Factually, it may indeed be called the cause of the sovereign's action, but still it must act through the sovereign; and if there were no sovereign through which it had to act, its action might well be quite different. The helm controls the ship no less because some one must give direction to the helm; and the sovereign controls the law no less because some one may give direction to the sovereign.[1] The fact that forces will exert pressure is not the important thing; of course they will; the important thing is the way they must go about exerting it. Now in a community politically organized under sovereignty, they must exert it through the sovereign; in the absence of sovereignty there is no legal obstacle to prevent them from exerting it directly

[1] See Woodrow Wilson, *An Old Master and Other Essays* (New York, 1893): "It is none the less sovereign because it must be observant of the preferences of those whom it governs," p. 88.

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against their opponents to the point of actual intimidation and violence. The difference is not unimportant; it may be only a difference of degree, but still it produces vital differences in both methods and results. It is never quite enough to see in the politically organized community only a pressure of competing interests, as the pluralists so often do. The competition and the pressure undeniably exist, but there exists also a structure of legal processes which set limits to their action, and often deflect its direction. The kind of competition which goes on between opposing interests within a nation-state is certainly a different kind of competition in enough important particulars from that which goes on between "independent" nation-states to warrant recognizing the differences. Within the nation-state, organized under sovereignty, the competing interests must adapt their competitive methods to the fact that there is a central authority which must transmute their purposes into its own before they can claim legal validity. Now if they succeed in bringing this result to pass, it may well be that by adding the authority of the sovereign to their own strength they will thereby become immeasurably stronger than they would be in a free field with nothing but their own resources to rely upon; on the other hand, in a government that is at all well organized, they will hardly succeed in thus translating their purposes into law for any considerable period of time without constantly consenting to modify those purposes very materially so as to bring them into at least some measure of harmony with those of other important groups in the community. Fundamentally, of course, it comes down to whether the mechanism of government is, or is not, well planned. If it is so planned and organized as to prevent its falling completely under the control of a dominant group against the will of other groups, then practically all its acts, although they may often or indeed generally seem to favor one group at the expense of others, are almost certain to be the results of adjustments and compromises in which the favored group is compelled to give some *quid pro quo*. Government, if it performs its function, is simply a great central coordinating agency from which these adjustments ultimately emerge; and Mr. Laski deserves credit for the fact that

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no one has stated this more tellingly than he himself has done.[1] But even if government is not well organized, and performs its functions ill, still it sometimes accomplishes one important purpose; even if it habitually favors one group in the community at the expense of others, and advances the interests of the former to the utter disregard of the latter, it may yet afford the advantages, whatever we hold them worth, of peace and order. It at least enables men to know the rules they must live under and the authority to which they must submit if they would be law-abiding. Now there are times, no doubt, when this is not a good thing; there is a peace which is the "bitterest bitterness" and worse than any war; and at such times the anarchy of resistance and civil war may be the only thinkable portal to a fairer and better world. But admitting all this, there is still a truth in the old commonplace that one tyrant is preferable to many; and the age of Augustus, the age of the Medici and of the Tudors, bear witness that as a general rule men appear to find the peace and order even of a despotism a more satisfactory environment wherein to work out their purposes than a continual conflict of authorities, though the latter be shot through with the purest passion for civil or religious liberty of a Brutus or a Becket.

Of course if government is to perform effectively its function of a coordinating agency for adjusting the contrary aims and interests of competing individuals and groups, it must be possessed of a certain independent strength of its own to prevent it from becoming only an instrument in the hands of one or more of the competitors. A feeble government is of no use in effecting adjustments, for the reason that on the one hand it inevitably

[1] *A Grammar of Politics*, pp. 66-70. Mr. Cole would deny the supreme coordinating function to the "State", by which he apparently understands, however, nothing more than a state having a government as at present usually constituted; but he recognizes the need for some agency to exercise that function "in order to prevent the sort of 'cat-and-dog' fight which went on between Church and State in the Middle Ages," *Social Theory* (New York, 1920), p. 138, and this agency he would establish in the form of a "Joint Council or Congress of the supreme bodies representing each of the main functions in Society," *ibid.*, pp. 134-135. But what is this but government with a particular form of organization and under some other name?

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degenerates into a mere tool of one group without ability to compel that group to yield consideration to other groups; and because, on the other hand, it cannot lend enough reenforcement to the strength of the favored group to preserve the peace of the community against the discontented outbreaks of rival groups. A strong government, on the contrary, even if it happens to be so organized as to fall under the domination of a special group, may indeed fail to effect adjustments in the sense of securing to other groups the fair measure of their claims and interests; but, none the less, it may still, if wisely and shrewdly administered, as was the old Venetian Republic, successfully preserve the advantages of peace and order. It must be wisely and shrewdly administered, however, because there are things which even the strongest government cannot venture to do without endangering or destroying its effectiveness and even its existence. This is a point which sceptics on the subject of sovereignty have delighted to labor. The classic example to enforce their argument has been the hypothetical case of a constitutionally absolute despot who should promulgate a law outraging some deep-seated religious prejudice of his subjects.[1] Obviously such a law would not be obeyed, and could not be successfully enforced. More than likely it would initiate a rebellion which would result in the overthrow of the despot. This situation has been urged as a conclusive argument against the validity of the doctrine of sovereignty. If, it is said, the sovereign is thus absolutely limited in the nature of the laws which he can make, how can he be considered as a truly sovereign law-maker at all?

Such a question is but one more manifestation of the tendency to take sovereignty in the unwarrantably broad sense which we have already discarded; it proceeds from again confusing legal with factual considerations. Legally a sovereign may well promulgate laws which actually he is unable to enforce; if he does

[1] "Everyone knows that to regard the King in Parliament as a sovereign body in the Austinian sense is absurd. No Parliament would dare to disfranchise the Roman Catholics or to prohibit the existence of trade unions. If it made the attempt, it would cease to be a Parliament."—Laski, *A Grammar of Politics*, p. 52.

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so habitually, then we must predict as a matter of future historical fact either that sovereignty will go into abeyance, as it did during the Middle Ages, or else that the sovereign will be supplanted by a shrewder or a stronger one. These, however, are purely factual results which until they eventuate can have nothing to do with the question of whether for the time being we are to regard the sovereign's acts as vested or not with legal character or validity; all that they indicate is that legal sovereignty is, as I have said, no necessary and inherent part of the order of nature, existing inexorably everywhere, but rather something which can come into existence, be transferred, or disappear as a result of the ineptitude of the sovereign or of social or cultural changes within the community or of other historical circumstances of many different kinds. Of these circumstances the most immediate and urgent are of course those which bear upon the question of whether or not the supposed sovereign is generally obeyed. If he is habitually disobeyed, as were the Holy Roman Emperors in a great part of the dominions to which they laid claim, then we can only say that in a community where such a situation prevails, sovereignty has really ceased to exist; its laws and promulgations are but blank cartridges, mere *bruta fulmina*. It is sometimes hard to tell in a given case whether this point has yet been reached; but whether it has been reached or not is a practical question of fact which has no direct bearing on the question of what for the time being is or is not the law; there is no legal way of determining whether habitual disobedience of the sovereign's laws and judgments has gotten to the point where he can no longer be properly said to be sovereign. The factual nature of the question and the practical solution which has to be applied to it are illustrated by the method of international law in distinguishing between so-called sovereigns *de jure* and sovereigns *de facto*.

It is by no means to be inferred from what has just been said that sovereignty is purely a matter of the possession of supreme physical force. That would be a misconception. It may be that the sovereign's laws will be respected only or chiefly because he has the actual power to compel acquiescence;

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but altogether apart from the matter of physical power, they may under other circumstances be as completely respected because no one ever thinks seriously of questioning them. It is not at all essential that physical sanctions should be the sole or principal factor producing obedience; the important thing is only that the obedience should in fact exist. It may exist either because of the strength of habit or custom, or because of the prevalent fear of religious sanctions, or for some other reason of similar nature; under such circumstances a sovereign almost entirely without physical power may long receive a full and effective obedience. At other times the possession or exertion of physical power may be required to bring about this result; and under still other circumstances, even physical power itself may be utterly ineffective to produce it. The causes of obedience are complicated and obscure, and raise fundamental and highly interesting political questions; but they are not the same questions as the question of the nature of sovereignty and its relation to law. They are connected with it to the extent, and only to the extent, of our having to say that sovereignty cannot function except in an atmosphere where obedience, i. e., acquiescence in the sovereign's determinations, however it may be produced, is the normal and habitual condition, disobedience the abnormal and temporary.

Just as it is not necessary to say that sovereignty is founded on force, neither is it necessary to insist that laws must be regarded as primarily the sovereign's *commands*.[1] It is sufficient to regard them as his pronouncements, or as dependent for their legal character upon his determinations. The idea of a command seems too frequently to have carried with it to the minds of many thinkers the notion that a law must somehow be an arbitrary expression of the sovereign's unmotivated or purely selfish "will" or caprice,—that it must be evolved in his inner consciousness out of nothing, and without any regard for the customary or ideal notions of right and wrong which men ordinarily consult in determining their conduct. If this is the implication of the word "command" as used in the orthodox

[1] Laski, *A Grammar of Politics*, p. 51.

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Austinian expositions of sovereignty, then the word should certainly be abandoned, and some other and less misleading word substituted. The function of the sovereign is not to create laws arbitrarily *ex nihilo*, but to be the source or mouthpiece of final and authoritative pronouncements of the rules of conduct which are to be called laws. There is no logical reason why these pronouncements should not be, there is every moral reason why they should be, culled from and based upon the most carefully reasoned prevailing opinions of right and wrong.[1] That they should always exactly coincide with the dictates of abstract right is too much either to expect or demand, for the very reason which makes sovereignty indispensable to a régime of legal order: namely, that questions of right and wrong are not matters of absolute mathematical demonstration, but lie so frequently within the twilight zone of rational differences of opinion, and that there is therefore need for the exercise by some recognized organ of what Mr. Justice Holmes has aptly termed the "sovereign prerogative of choice."[2] It is precisely the making of this choice which is the characteristic act of sovereignty; it may be well made or ill, it may be made from good motives but ignorantly, or from bad motives and in willful disregard of the considerations upon which it should properly be based. The sovereign makes laws, but makes them always out of existing materials,—ideas, interests, demands; he may make them because he thinks them right, or because he believes they will advance his material interests, or only because he is compelled by circumstances to do so; the important thing is that it is his act which entitles them to be called laws, which puts on them the stamp and genuine hall-mark of law, although some men or many men may have insisted all along that they should be law and have even called them law. On the other hand, his

[1] "That the sovereign person or group actually wields the stored-up force of society by an uncontrolled exercise of will is certainly never in accordance with fact. A despot with a disturbed brain is the sole conceivable example of such sovereignty. The vast mass of influences, which we call for shortness moral, perpetually shapes, limits or forbids the actual direction of the forces of society by its sovereign."—Maine, *op. cit.*, p. 359.

[2] *Collected Legal Papers* (New York, 1920), p. 239.

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act denies the character of law to all contrary and inconsistent rules, despite the fact that many other men may have insisted with equal strength of conviction that it was these latter which were entitled to genuine legal validity. The sovereign is thus not so much a creative influence as an organ of final choice; the practical effectiveness of his choice in the form of the maintenance of legal order depends on the practical and factual question of whether his choice is or is not generally acquiesced in and accepted and obeyed. A sovereign making choices and promulgating laws which are habitually disregarded is not for practical political purposes a sovereign,—is not a sovereign *de facto*—although in the absence of a competing claimant for sovereignty who is habitually obeyed, he may continue to be called legally a sovereign *de jure*. But a sovereign *de jure* who is not also sovereign *de facto* is to all political intents no sovereign at all; the price that is paid for such a state of things is simply the abeyance of legal order and so of sovereignty in the true sense, and the existence of what in its practical effect amounts to a condition of anarchy.

Does it not therefore seem to follow that after all it is the factual aspects of sovereignty which are the most important? In one sense, yes; but only in one sense,—i. e. only if we mean by "important" the question whether sovereignty is effective in doing what it can valuably do,—and only if we limit the admission to the single factual consideration of whether or not sovereignty,—i. e. a régime of legal order,—exists. Such matters as what causes enable it to exist, and what are the forces which influence its acts when it does exist, and which set limits to the scope of its effective power, are altogether different and collateral questions, equally important though they of course are as independent subjects of political investigation. The only factual consideration which is pertinent in considering the nature and meaning of juristic sovereignty is whether or not in a given community the thing exists; and this is a question which can be approached only after we have first determined what we intend to signify by the word sovereignty. A theoretical discussion of the nature of legal order and of its connection with the concept of sovereignty such as was contained in

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the first part of this paper is thus an indispensable prerequisite to any consideration of the factual question of the existence of sovereignty. We must have the pattern in our minds before we can test the conformity of the facts to it; we must know what it is we are looking for before we can look for it.

It is from this angle that the real importance of the doctrine of legal or juristic sovereignty emerges. That doctrine is essential for enabling us to understand what legal order consists in; and we must understand what legal order consists in before we can go on to consider the practical questions of the advantages and disadvantages of legal order and the best devices for increasing the one and diminishing the other. Thus, although the doctrine of legal sovereignty may be in a direct sense unimportant, as Mr. Laski suggests it is,[1] for answering questions as to the true location and proper use of political power, indirectly it is of vast importance in paving the way for a consideration of precisely these practical political questions against a proper back-ground and a proper setting; because it states with the baldness and sharpness of a ground-plan sketch the requirements of legal order and the nature of the price which men must pay for it. Having determined this question, and only after having determined it, can we go on to ask how the price can be lowered to an irreducible minimum of inconvenience.

The question of the meaning of sovereignty and legal order in this sense takes on special importance in periods where an existing sovereignty begins to be threatened on a significant scale with disobedience to its laws and decrees. At such a time we are faced with the possibility, if not as yet with the certainty, of the break-down and disappearance of sovereignty through increasing disobedience; and only a firm grasp of the significance of sovereignty for legal order will enable us intelligently to balance the cost of resistance against the cost of obedience.

Suppose, for example, that we do not accept the doctrine of

[1] "What we desire to know is not what has the legal right to prevail but what does in actual fact prevail, and the reasons that explain its dominance. Here, it is clear enough, the legal theory of sovereignty is worthless."—Laski, *Authority in the Modern State*, p. 41. See also Bentley, *The Process of Government*, p. 264.

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sovereignty. We will then insist that laws do not derive their validity from the stamp of the sovereign, but that a rule may be validly a law which is directly contrary to the rule which the sovereign is seeking to enforce. But if this is the case, and if we must look not to the sovereign but to some other source to assure us what is the law, where else are we to look? Mr. Laski has suggested the only possible answer,—we must look within, each man to his own individual conscience.[1] If we use this method of approach we have no choice but to say that the validity of all law is derived from the conscience of the individual. The question of obedience or resistance then becomes a simple one. All that is involved is for each individual to set side by side and compare the law as promulgated by the sovereign with what his own conscience tells him is the law, and if there is a discrepancy between the two precepts, then he is not merely morally justified, he is legally authorized, to disobey. There are but two factors to be taken in account in solving the problem,—the sovereign's pronouncement on the one hand and the individual's own conception of the law,—i. e., of what is right, —on the other. His career as a member of civil society becomes a continuous process of such comparisons, and he stands at every moment on the brink of disobedience and resistance. "The only ground upon which the individual can give or be asked his support for the state is from the conviction that what it is aiming at is, in each particular action, good. . . . It deserves his allegiance, it should receive it, only where it commands his conscience. . . . Its purpose is at each stage subject to examination."[2] The individual is thus invited to assume

[1] "The individual is ultimately the supreme arbiter of his behaviour; and he most fully realizes the purpose of the state when he offers to it the substance, whatever that may be, of his judgment."—*A Grammar of Politics*, p. 63. "The state is for [the individual] sovereign only where his conscience is not stirred against its performance."—*Authority in the Modern State*, p. 43.

[2] *Ibid.*, p. 46. A more extreme statement is that of Thoreau, "Civil Disobedience," *Writings* (Boston, 1906): "Must the citizen, even for a moment or in the least degree, resign his conscience to the legislator? Why has every man a conscience then? I think we should be men first and subjects afterwards." Vol. IV, p. 358. "There will never be a really free and enlightened state until the state comes to recognize the individual as a higher and independent power from which all its own power and authority are derived and treats him accordingly." *Ibid.*, p. 387.

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habitually what Mr. Laski has elsewhere called the "Athanasius attitude."[1]

The doubt which suggests itself in connection with this attitude is that possibly it may be too naïve,—that possibly it may not be sophisticated enough to comprehend the full challenge of civil society. It is the primitive attitude of Antigone,[2] rather than the mature comprehension of Socrates. Its capital defect is that it leaves fundamentally out of account the chief and most difficult factor in the whole problem—the question, namely, of the advantage, not merely to all individuals but to each individual, of having a legally ordered society to live in, and of the price which he must perforce pay to get it. This factor is the thing which really causes all the difficulty; and it is the major factor. If there were no question but of a conflict between two opposing wills, the will of the citizen as one individual and the will of the sovereign as another, the problem would be quite easy; the individual could not fairly be expected to surrender his will until convinced intellectually and morally that he was wrong. But so to state the problem is to simplify it out of all recognition. It is not a question of a bare conflict between the individual and the sovereign; the conflict must be regarded as rather between the individual and all that the sovereign stands for. The individual may be convinced and reasonably convinced that the sovereign is wrong, unfairly,

[1] I would urge against this position the criticism that it reverses the proper order of the burden of proof, that it shifts improperly the presumption of validity. The presumption must be in favor of state action; the burden of proof on the refractory individual. The state must not continually be justifying itself to the individual; the individual must justify himself morally in the exceptional cases when he feels morally compelled to resist the state.

[2] Antigone submits to her punishment, not like Socrates under a sense that it is something owed to civil society, but merely because she must bow to superior force; and she insists on the justice of her position, and protests against the injustice of her punishment, to the bitter end: "What rule of divine justice have I transgressed? . . . . It is my piety which wins me the name of impious. But if my death be, as it might seem, the pleasure of the gods, I will suffer death ere I confess that I have sinned; and if, on the other hand, the gods do not approve of my death, and these men are the guilty ones, may they suffer no more woes than they have unjustly done to me." — Sophocles, *Antigone*, lines 921-928.

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brutally wrong; but the deeper question must at once arise of what is involved in disobeying the sovereign.

For sovereignty, as we have seen, is a prerequisite of legal order; a prerequisite, that is, of a condition of affairs where the disputes which will honestly and inevitably arise between man and man, and which will as often be due to a real and involuntary difference in intellectual outlook as to a clash between purely selfish purposes, are settled peaceably by a publicly authorized arbiter, and, so far as possible, by impartial rules, rather than by the rough arbitrament of force and chance. The very essence and meaning of civil society is precisely the fact that the former method rather than the latter is the one which habitually prevails; and this essential method of civil society is just the thing which we strike at whenever we disobey or resist the sovereign. The question of obedience thus raises far more than the mere question of the agreement or disagreement in a particular case between the sovereign's law applying to the case in hand, and what the individual's private conscience tells him the law ought to be; properly approached, it brings dominantly into the foreground the large issue of the desirability of preserving public authority and civil society itself. This is the great truth so clearly put by Socrates, when in answer to Crito's plea for disobedience he represents the City as standing before him and saying, "Tell us, Socrates, what is it you mean to do? Nothing more nor less than to overthrow us by this attempt of yours,—to overthrow the laws and the whole commonwealth so far as in you lies. For do you imagine that a city can stand and not be overthrown, when the decisions of the judges have no power, when they are made of no effect and destroyed by private persons?" [1] In other words, something of vastly superior

[1] *Crito*, Everyman's ed., chap. xi, p. 359. The point made by Socrates seems to be grasped, although but dimly, by Mr. Cole, but his statement is valuable if only for his apparent concession that the right of disobedience has no more than a subjective personal basis. He says: "In most forms of social theory . . . the state is assumed to be an altogether superior kind of association or super-association, quite different from all the other associations to which a man may belong. . . . And whereas no man in his senses would believe that it is my real will to carry out all the decisions of my cricket-club without questioning, men can be brought to think of the state so as to say, 'Theirs not to reason why,

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consequence is involved than the essential rightness or wrongness in the given case of any particular exercise of sovereign power; what is involved, fundamentally, is the value and validity of civil society in contrast with the freedom, the flexibility, the experimentalism, of anarchy, whether the latter take the form of benevolent cooperation or of forceful competition. Civil society cannot stand when the decisions of the judges are made of no effect by private persons; and the Athanasius attitude, to be defensible, must balance not particular differences of opinion between the individual conscience and the sovereign will, but the value of the end which conscience has at stake as against the value of civil society.[1]

theirs but to do and die.' . . . We may be prepared to stretch more points in favor of accepting a decision of the state than of the cricket-club because we regard the maintenance of the State as more important; but, if we reason at all, we must apply our reason to the decrees of the state as well as to those of other associations. A difference of degree may remain; but the difference in kind has disappeared. . . . . A man owes not one absolute social loyalty and other subordinate loyalties which must always in case of need be overridden by it, but a number of relative and limited loyalties of varying importance and intensity, but not essentially differing in kind. If this is so, and if the association to which we owe our ultimate loyalty is not externally determined for us by the character of the association itself, it follows that the choice of ultimate loyalty, in a case where loyalties conflict, necessarily resides in the individual himself. It is true that the functional Society which we envisage includes in its structure forms of co-ordination, and, in the last resort, co-ercion. Thus, in making his choice of loyalties, the individual cannot choose without incurring a risk of penalty, and does not escape altogether from the possibility of being co-erced. That, however, is not the immediate point which I have in mind. . . . The immediate point is that of the moral and not of the physical, or co-ercive, obligation upon the individual, and a great moral victory is won for individual liberty by the successful assertion of the individual's ultimate and unassailable moral right to choose for himself among conflicting social loyalties. Even if Society punishes him for choosing in a manner contrary to that prescribed by its co-ordinating organization, it has no right to blame him, or call him 'traitor', merely because his choice is contrary to the social precept. It is his business how he chooses, even if the consequences are still a sphere for social definition." (*Social Theory*, pp. 188-190).

[1] This point is often made by Mr. Laski himself, e. g.: "A right to disobedience . . . is . . . reasonably to be exercised only at the margins of political conduct. No community could hope to fulfil its purpose if rebellion became a settled habit of the population."—*A Grammar of Politics*, p. 62. "The real obligation of obedience is to the total interest of our fellow-men." — *Ibid.*, p. 64. "The point at which resistance becomes an expedient factor is not a matter for

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For there are of course ends which from time to time do validly outweigh the maintenance for the time being of the orderly processes of civil society. Revolution, like war, is no doubt entitled to a place as one of the indispensable ingredients of progress in the existing, and perhaps in any, state of human nature. The only point I am insisting on is that revolution should always be recognized for what it is,—a lapse into anarchy. Only so, in any specific case, can the wisdom of taking the plunge be fairly assessed; only so can the full meaning of the alternative between obedience and resistance be grasped in all its awful implications.[1] The chief defect in the doctrine of the denial of sovereignty is that it glosses over with thin sugar-coating this fundamental alternative. The doctrine that there exists somewhere a law above, and independent of, the law of the sovereign, and capable of being discovered for himself by each

definition or prophecy; it will vary with the circumstances of each age. All we can say is that at times in the history of a state there may well come a point where the maintenance of order seems to some group of men worthless as an end compared to achieving, by other than constitutional means, some good deemed greater than peace."—*Authority in the Modern State*, pp. 53-54.

[1] This was recognized, for example, by Benjamin Constant: "Obedience to law is a duty, but, like all duties, it is not absolute, it is relative; it rests on the supposition that the law emanates from a legitimate source and is confined within just limits. This duty does not cease when the law departs from this rule only in certain respects. We ought to sacrifice a great deal for the sake of the public peace; we should render ourselves guilty in the eyes of morality if, by too inflexible attachment to our rights we should disturb the peace as soon as it seemed to us that they were being infringed upon in the name of law." If we "say that we obey laws only in so far as they are just, we shall find ourselves authorizing resistance to law in the most senseless and culpable instances, and anarchy will reign." On the other hand, only a subjective moral validity can be allowed to the test which Constant seeks to establish for rightful disobedience: "No duty would bind us to obey laws which not only restrain our legitimate liberties and limit actions with which they had no right to interfere, but which would also command us to act contrary to the eternal principles of justice and piety. . . . As long as a law, even though bad, does not tend to deprave us, as long as authority demands of us only such sacrifices as render us neither vile nor cruel, we can submit to it." These quotations from his *Cours de Politique Constitutionelle* (additions et notes: "Des Droits Individus") are given in Elizabeth W. Schermerhorn, *Benjamin Constant* (Boston and New York, 1924), p. 381. For an excellent statement of the issues involved in disobedience, see T. H. Green, *Lectures on the Principles of Political Obligation*, §§ 143-147, in *Works*, edited by Nettleship (London, 1906), vol. II, pp. 454-459.

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private individual so as to justify disobedience to the positive law,[1] carries with it the implication that civil society itself exists,

[1] This view possesses a perennial appeal for extreme reformers, e. g., the abolitionists before the American Civil War. Thus one of their platforms declares that since slavery is contrary to the natural rights of man, and since "the moral laws of the Creator are paramount to all human laws . . . therefore, Resolved, that we . . . owe it to the Sovereign Ruler of the Universe, as a proof of our allegiance to him, in all our civil relations and offices, whether as private citizens or as public functionaries sworn to support the Constitution of the United States, to regard and to treat the third clause of the second section of the fourth article of that instrument, whenever applied to the case of a fugitive slave, as utterly null and void, and consequently as forming no part of the Constitution of the United States whenever we are called upon or sworn to support it."—*Emancipator Extra,* Tract No. 1, reprinted in K. H. Porter, *National Party Platforms* (New York, 1924), pp. 13-14. So William Hosmer, in his *Higher Law in its Relation to Civil Government* (Auburn, 1852), p. 79, maintains that the individual is the judge of what the "higher law" commands, and of when the positive law is in keeping with it, and if it is not, he should then refuse obedience. For these references I am indebted to an unpublished thesis on *Natural Law in American Political Theory* by my friend Dr. Benjamin F. Wright, Jr., of Harvard University. The theory that the isolated private individual is entitled to judge for himself as to what the "higher law" commands has inevitable anarchistic implications; and an effort to avoid these sometimes takes the form of holding that such authority belongs not to private judgment, but to some organized agency independent of the state organization, e. g., the church. This view has naturally been favored by Roman Catholic writers as in accord with the historic position of that body. Thus Orestes A. Brownson, an American Roman Catholic, denied the right of revolution except when the Church "as the representative of the highest authority on earth, determines when resistance is proper and prescribes its forms and extent." *Works,* ed. by Henry F. Brownson (Detroit, 1884), vol. XV, pp. 397-398. Any act against civil government is forbidden by God's law unless the infallible Church, as the interpreter of that law on earth, declares otherwise. But the people must beware of doing this for themselves, for individualistic interpretation of this higher law is the complete negation of all government.—*Ibid.,* vol. XVII, p. 12. For these references I am also indebted to Dr. Wright's thesis, *supra.* What is substantially the same doctrine is advanced by Father Cathrein in his hand-book in even stronger form, since he allows to the Church an actual veto on governmental action in all matters which touch spiritual concerns, as well as the right to decide conclusively what matters belong to this class. Thus he says: "It is for the Church to judge whether any law or ordinance concerning a temporal matter is sinful, or in any other way harmful to the spiritual welfare of the subjects, and in consequence the Church is vested with legal authority to require the civil power to repeal or amend such a law, and in case of necessity the Church has even the legal authority to render such a law null and void." This position is reached on the ground that the "mere co-existence, side by side, of Church and State in complete equality would give rise to perpetual dissensions without any means of

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and can exist, apart from and independently of obedience to the sovereign; and that therefore resistance by the individual to the sovereign is not necessarily anything like so serious and ultimate a thing as an assault on civil society is readily seen to be. The essential meaning of resistance is obscured, the price which it entails belittled. And at the same time the price that we must pay for civil society itself is belittled. For the demand which civil society makes that private individual will and purpose be always subordinated to the will of the authorized public representative of the society, on no other and no better ground than merely that the one is private and the other public, is by implication denied, if we accept the doctrine that civil society does not depend for its existence and functioning on obedience to its constituted representative. A view of civil society is thus produced which evades the necessity for political organization,—which tolerates the claim of separate and discrete groups within the state to be independent of the jurisdiction of, and immune from interference by, the state, and which in pursuance of the same conviction is capable of seeing in an unorganized "society of nations" a substantial substitute for an organized League. The theory seeks to have its cake of order without having to pay the price of organization.

This was the theory that dominated the thought of the Western world throughout the medieval centuries.[1] It is a theory the defectiveness of which is in large part cured if we are able to accept a presupposition which to the mind of the Middle Ages was a commonplace,—the presupposition, namely, that there not merely exists a body of law above and independent

settling them with juristic finality. Nor would a merely directive power of one over the other be sufficient, without the power of imposing a legal obligation and enforcing it with penalties; for this would lack the necessary effectiveness. There remains therefore only the indirect power of jurisdiction either of the State over the Church, or of the Church over the State. But the indirect power of the State over the Church must be rejected . . . . for the primacy must be given to that association which is the more pre-eminent and noble, and the Church is more pre-eminent than the State." *Philosophia Moralis,* 7th ed. (Freiburg-in-B., 1911), p. 438, § 646. The translation is my own.

[1] See my *Statesman's Book of John of Salisbury* (New York, 1927), introd., pp. xxvii–xl.

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of human choice, but that the precepts of that law are fixed, definite and capable of being as clearly perceived in identical form by every human intelligence as are the elementary truths of mathematics.[1] Men obviously need no sovereign to exercise a prerogative of choice in order to tell them whether twice two is five or four. If the laws which distinguish right from wrong are equally well defined by "nature," we need no sovereign to tell us whether the issue of watered stock by a corporation is illegal, or whether or not relief by injunction is a lawful remedy to apply in a labor dispute. Men thought, not so long ago, that the one right answer to every such question could be reached by mathematical demonstration. If this were so, there would be no need for a sovereign law-declaring agency. But during the past few centuries there has been growing doubt as to whether it is really so; and the conflict between the faith and the doubt is quaintly reflected in the inconsistency of a central passage of Locke's *Second Treatise of Civil Government*: "In the state of Nature there are many things wanting. Firstly, there wants an established, settled, known law. . . . For though the law of Nature be plain and intelligible to all rational creatures, yet men, being biased by their interest, as well as ignorant for want of study of it, are not apt to allow of it as a law binding to them in the application of it to their particular cases."[2] In other words, the law of nature is there, but we need an authoritative human organ to tell us what it is.[3] "Those who are united into one body and have a common established law and judicature to appeal to . . . are in civil society with one another, but those who have no such common appeal are in the state of nature."

[1] See my *Administrative Justice and the Supremacy of Law* (Cambridge, 1927), pp. 115 *et seq.* *Cf.* Bynkershoek, "If men were reasonable, they would know the law accurately without more."—*De Foro Legatorum*, chap. iii. *Opera Minora*, ed. secunda (Leyden, 1744).

[2] *Second Treatise of Civil Government*, chap. ix, § 124.

[3] The same criticism is applicable to the theory of the "sovereignty of reason" put forward by Constant, Cousin, Guizot, and other French liberals of the first half of the nineteenth century. See C. E. Merriam, *History of Sovereignty Since Rousseau* (New York, 1900), chap. v. "Reason" requires an authoritative interpretation, and so an authoritative interpreter, unless anarchy is to result.

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Even, then, if we grant the existence of a "law" that is not of men's making, but recognize that room remains for possible differences of opinion as to its specific precepts, we shall still have to admit the need for political organization, the need for a sovereign to "declare" that law authoritatively; and we shall then be driven forward to face the important practical problems incidental to devising a mechanism of organization best adapted to cause the precepts of the sovereign to conform to the precepts of the "higher" law. But this is a task which the doctrine of resistance minimizes and discourages. If each individual is entitled to search in his own conscience for the precept of the higher law applicable to the case in hand, and then to disobey the sovereign should his inquiry lead to a different conclusion from that which that sovereign has reached, the importance of having a sovereign who will reach the right conclusion in the first place is vastly decreased; for if no law made by the sovereign need be obeyed unless it is a good law, the question of whether the sovereign makes bad laws becomes of relatively secondary consequence. From this point of view, therefore, the real guaranty of good government is the "right" of resistance, not the perfecting of the governmental machinery adapted to produce the best results under given circumstances. In answer to this theory it should be sufficient to point out that the whole history of progress in the art of government has consisted in the gradual substitution of the latter for the former of these guaranties. Revolution was during long ages the only effective way by which the ordinary acts of government could be corrected; the efforts of many centuries have been spent on devising less wasteful and more orderly methods of control. These efforts have proceeded on the assumption that it is not compatible with the existence of civil society to leave to each individual the protection of his own rights; that so long as the normal conditions of civil order prevail, the sovereign, as the organ of the community, must be entitled to the obedience of the individual precisely because, and for no other reason than because, the sovereign *is* the organ of the community; and that therefore the protection of the individual under normal circumstances must be found not in the "right" of resistance, but in the manner and plan whereby sovereign power is organized and constituted.

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The fact that in civil society the individual is thus not entitled to set his own idea of the "higher" precepts which the government should follow against the sovereign's version of them, does not mean that there are no such precepts.[1] Whether they constitute a body of "higher law" or not, is of course a wholly different question; but nothing that has been said implies that there are no canons of morality and justice which the sovereign ought to embody in his positive laws. On the contrary, the institution of sovereignty exists primarily because of the need of an organ to focus and formulate these fundamental, but more or less vague and disputed, canons into precise and uniform rules which on the one hand have the fixity and generality necessary for a rule of law, and which on the other hand represent the moral conceptions that command acceptance among the most influential members of the community rather than views which are held merely by isolated private thinkers. In a realm of ideas where there is so much room for differences of opinion as in connection with the precepts of morality, it is absolutely necessary to have such an authoritative declaration of the rule before there can properly be any thought of enforcing it as a rule of community action. It may, and doubtless often will, result that the rule selected by the sovereign for enforcement, precisely because it will be a rule reflecting the morality of the crowd or the morality of the wealthy or military class, will offend the consciences of the individuals who constitute the most enlightened and morally advanced element of the community. Under such circumstances is not the right of this class to resist essential in order to secure moral progress? As a last resort and in extraordinary situations where the stake is sufficiently high, the answer must certainly be, yes; but always with full recognition of the fact that such resistance constitutes rebellion, and entails for the time being a dissolution of

[1] This seems to be the heart of Mr. Laski's misunderstanding: "Within the sphere of law, there is therefore . . . no such thing as an unjust command."—*Grammar of Politics*, p. 50. There is no such thing as an illegal law, and "within the sphere of law" no question arises as to whether a law, otherwise proved to be a law, is just; but this emphatically does not mean that there is no such thing as an unjust law.

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the conditions of civil order. Under a properly adjusted constitution, the necessity should seldom occur, because such a constitution would, on the one hand, provide adequate channels for the views of this class to exert an influence upon the sovereign as far as is compatible with the obvious fact that laws must be made to fit the average rather than the exceptional man; and because, on the other hand, under such a constitution the sovereign would doubtless be wise enough to limit to the narrowest point his interference with those kinds of individual action from which moral improvement can properly be expected to occur.

With such a guaranty, however, resting as it does on no more secure foundation than the intelligent discretion of the sovereign, the partisans of progress, no less than the partisans of property, are not wont to be content. If they have not always gone so far as to champion the right of private resistance, they have none the less generally fallen back on what is substantially but a variant of the same doctrine, and have insisted that the discretion of the sovereign must be subjected to, and limited by, law. Their appeal has been the traditional one from a "government by men" to a "government by law". This demand obviously assumes the possibility of the existence of a body of law which is not merely independent of the sovereign's creation, but which can in some way be enforced against the sovereign to limit the scope of his authority. The idea is not quite the same, however, as the one we have been considering, of a "higher" body of natural law, self-evident to the human reason, and hence capable of enforcement against the government by the independent resistance of private individuals; it contemplates ordinarily a set of more positive rules of a definitely juristic nature, embodied in precedents and fundamental documents, and enforceable through some sort of judicial procedure. In this form the theory is widely prevalent, particularly in the United States, and connotes what is commonly meant when we speak of "government of law". But, on analysis, it is a theory which presents very serious difficulties in both its branches,—i. e. both as respects the source, and also the method of enforcement, of the law which is to control the sovereign.

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As respects enforcement, if this is not to be left to the unregulated private action of individuals and groups, it must be put in the hands of some definite agency or organ, analogous to the Supreme Court of the United States. But when we have erected an organ of this kind with a power of control over the supposedly sovereign organ, it is obvious that we have in effect either simply transferred sovereignty from the latter to the former, or else we have only geared the two together into a compound sovereign system like the American, where one organ within the system checks another. In either event, however, we have completely failed to establish over the sovereign an agency of control from without. It is the old difficulty of attempting to set a guard over the guardians. But if the law of infinite series makes it for this reason impossible for law to control the sovereign through a law-enforcement agency, cannot law still control even without such an agency? We have seen above that physical compulsion is not a necessary sanction of law if obedience be paid to it for some other reason; is it not conceivable that the sovereign might respect the precepts of a "higher" law though there can be no way of enforcing these against it? But here we run against an even more deep-seated difficulty: who is to pronounce this higher law which the sovereign is supposed to be ready and willing to obey? To be sure, it is embodied in custom and precedent and fundamental instruments; but still it lies scattered far and wide among them, and the rule applicable to any given case will almost invariably have to be pieced together out of different materials and from different sources with a powerful amalgam of inference and policy. The task, in other words, is not like a problem in mathematics: it demands the exercise of choice and discretion. Who is to perform this task if there can be no independent agency outside the sovereign to apply and enforce the law against it? Obviously only the sovereign itself, or some organ within the sovereign system; and in this event can we say that the sovereign is really controlled by law, where it must rest with the sovereign itself to formulate and declare the law which is supposed to control it?

Certainly it should at least be clear that the sovereign can

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not be controlled by law in the same sense as are the individuals who live under sovereignty; and it is therefore misleading to speak of controlling the sovereign by law, if we have in mind the concept of positive law.[1] On the contrary, the situation is quite similar to that considered in the first part of this article in discussing the nature of international law. There exists, that is, a body of materials of a properly juristic character from which there can be formulated a rule, or various possible rules, capable of being applied to a proposed act of the sovereign; but apart from the sovereign itself, there is, and can be, no organ to make an authoritative pronouncement of the rule. Constitutional experts, like other private individuals may and generally do, differ with one another, and with the sovereign as well, as to what the rule really is; but it is only the sovereign's opinion that counts in the final analysis. Such control is not control in the usual sense of the term; all that can validly be said is that the sovereign in deciding upon its course of action where a constitutional issue is involved does or ought to take into account a body of juristic materials from which one or another constitutional rule can be deduced by processes of so-called legal reasoning. For this task some governments are better equipped than others. Thus, in the Supreme Court,

[1] This does not mean that there may not be rules of positive constitutional law, i. e., rules enforceable by the courts against other organs which for the time being form elements of the system of sovereignty. Such rules exist even in England. See Dicey, *Law of the Constitution*, 8th ed., pp. 23-25. But in England Parliament could at any time change these rules and so release itself from any inhibitory effect that they may have on its freedom of action. *Ibid.*, pp. 441 *et seq.* In the same way there is no inconsistency between the doctrine of sovereignty and the suability of the state by private individuals. In other words, the sovereign system of organs may be so constituted that specific organs which form a part of the sovereign system may be subjected to law made by the whole system and enforced against them on the motion of individuals by some other part of the system. But there are necessarily limits to such accountability. Thus it seems obvious that there can be no suit for damages caused by an adverse judicial decision—even Duguit admits this, *Law in the Modern State*, trans. by Laski (New York, 1919), p. 220—or for loss accruing from the passage of a general law, E. Duthoit, *Aux Confins de la Morale et du Droit Public* (Paris, 1919), p. 103, since the very object of such laws is often to shift burdens from one part of the community to another. So in the case of certain executive acts, — e. g., regulations which are legislative in character, or diplomatic acts, *ibid.*, p. 113.

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there is fitted into the American system of sovereign organs one which is peculiarly well adapted to exercise this juristic control over other parts of the system. But we must never delude ourselves into believing either that the Supreme Court is not a part of the governmental system, or that the constitutional law which it administers comes into being by spontaneous generation without the active intervention of the Court. The acts of the Court are controlled by law, but only by law as the Court declares it.

The judicial character of the American Supreme Court serves none the less to conceal to some extent the real nature of the way in which law is limited in its effectiveness to act as a check on the sovereign. This is much better illustrated in the English Constitution by the relation of Parliament to the so-called "law" of the Constitution. Here it is obvious that the sovereign organ is bound by that law only in the sense of being expected to take certain juristic materials into consideration as one of the controlling or limiting factors in connection with any proposed action. In other words it is expected to arrive at its determination in part by the use of legal reasoning upon legal materials. But it is of course free to perform the sovereign act of interpreting those materials in its own way and of determining how much or how little weight to give to them. It is bound by them only because, and only in so far as, it is willing to be; its obedience to the Constitution is a matter of custom, of morality if you will, rather than a strictly legal obedience. And so, although less obviously, is the obedience of the American Supreme Court to the Constitution in the ultimate analysis. The fact that it is a court requires, to be sure, that its actions are always taken, or at least always appear to be taken, on exclusively legal grounds—there are other organs charged with making the decisions of policy; but, even so, the law which binds the Court is what the Court itself makes it—under its potent alchemy the same constitutional provision has at different times been made to yield exactly contrary results, and frequently to yield results at variance with what constitutional experts have deemed right; and should the practice of rendering decisions without opinions ever come into vogue, it might become difficult to tell how or to what extent legal considerations could be made responsible in any given case for the Court's decision.

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It therefore seems necessary to revise our idea of a "government of laws" as contrasted with a "government of men." It cannot mean a government where disembodied rules inexorably control by their automatic operation the determinations of the human sovereign; for laws require to be formulated and interpreted and administered by human agencies, and the agencies charged with these tasks have the laws in their power to bend or mold or break them. It can only mean a government where the sovereign is imbued with what we may describe as habits of constitutional morality and of self-imposed respect for self-imposed rules. Only in this sense and subject to these limitations is the idea freed from misleading and mischievous implications.

From the point of view of political science, the doctrine of sovereignty therefore means in the last place as in the first that law is and must ever be at the mercy of human agencies; that good government cannot rest on the futile attempt to set up automatic barriers of abstract law to limit the action of the human sovereign, but that it requires a careful attention to the organization of governmental agencies into a system responsive to those forces whose influence in the community it is desirable and practicable to promote; and that its effective functioning will always depend not merely on machinery but on the existence within the organs of government as well as within the community at large of certain habits and states of mind which will make for restraint on the part of the one, and for obedience on the part of the other.

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THE CONTEMPORARY COLONIAL MOVEMENT IN GERMANY

IN the *Feldherrnhalle* (Hall of Generals) in Munich, built to resemble the *Loggia dei Lanzi* in Florence, immense funereal wreaths decorate the tablets set in the wall to memorialize Germany's territories lost in the Great War. Conspicuous among them is the heavy wreath tied with mourning streamers which covers the tablet simply inscribed "The Colonies". Impressively symbolic, it conveys, on the one hand, a sense of finality with which the Great War brought to a close the German colonial history of the past; and, on the other, it expresses the present deep desire of the German colonialists to keep green the memory of the oversea empire in the popular mind of the present generation and of those to come.

For the Treaty of Versailles demanded that Germany renounce to the Allies "all rights and titles to her oversea possessions" and, at one stroke, entirely swept away the German Colonial Empire. Statistically, the loss consists of 1,027,000 square miles of territory in Africa, in the South Seas and in the Shantung Peninsula in China, of 14,687,000 of population and of invested capital estimated at 505,000,000 marks. Since the peace, these territories have been distributed among the principal Allies who hold them as mandates under the League of Nations. Great Britain administers most of German East Africa (now Tanganyika Territory), one-sixth of Kamerun and one-third of Togoland as "Class B" Mandates, and the phosphate island of Nauru in the South Seas as a "Class C" Mandate; Australia is the mandatory for the Bismarck Archipelago and Kaiser Wilhelmsland in the South Seas, New Zealand for German Samoa, and the British Union of South Africa for the neighboring territory of German Southwest Africa, all "Class C" Mandates; France holds two-thirds of Togoland and five-sixths of Kamerun and Belgium controls a small part of German East Africa, known as Ruanda-Urundi, as "Class B" Mandates while Japan, having restored Kiao-Chau to China, retains the Caroline,

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Pelew, Marianne and Marshall Islands (excepting Yap) as "Class C" Mandates. Thus, for the present, at all events, has the Treaty of Versailles written an abrupt "finis" to the external history of German colonial expansion.

But the Peace Settlement of 1919 has not, on the other hand, terminated the internal colonial movement. Indeed, it has had quite the contrary effect as the evergreen wreath at Munich so poignantly suggests. For the complete loss of the oversea empire has stimulated the German colonialists to an effort which has never, perhaps, been quite so intensive in that nation. Evidences of their activities for the recovery of the lost territories can be found everywhere in Germany today: literature and propaganda in the shape of colonial histories, treatises, novels depicting life in Africa and in the South Seas, pamphlets replete with statistics, magazine and newspaper articles have literally poured from the press since 1918, telling the Germans more about their former colonies than they ever knew when those lands were German soil; indeed, two magazines, the *Koloniale Rundschau* and the *Kolonialdeutsche* are devoted exclusively to colonial interests and have a wide circulation although Germany owns no colonies. Again, the *Kolonialgesellschaft* (Colonial Society), the parent of all colonial associations in Germany, numbering more than 25,000 members, together with the recently organized *Reichsarbeitsgemeinschaft* or *Korag*, the national unifying agent for all colonial organizations, is ceaselessly active directing the present colonial campaign, arranging meetings, lectures, school programs, movies, and putting colonial ex-officials and authorities "on the air," while smaller societies, such as the *Kolonialkriegerdank* (Colonial Veterans' Society), the *Reichsverband der Kolonialdeutschen und Kolonialinteressen* (Society of German Colonials and Friends), the *Frauenbund der Deutschen Kolonialgesellschaft* (Women's Auxiliary of the Colonial Society), the *Frauenverein vom Rotem Kreutz für Deutsche über See* (Women's Branch of the Oversea Red Cross), and the *Uberseeklub Hamburgs*, supplement the work of the larger organizations and disseminate the colonial idea in their respective circles. Schools for the training of colonial administrators and settlers, such as the Seminary of Oriental Languages

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in the University of Berlin, the *Kolonialinstitut* in the University of Hamburg, and the *Kolonialschule* (*Wilhelmsdorf*) at Witzenhausen for agriculturists, are still functioning with ever increasing registration lists: scientific research into matters pertaining to colonial life such as the study of tropical diseases (at the *Tropeninstitut* in Hamburg), of African dialects, of plants and soils continues apace. Colonial Congresses still meet; "Colonial Week" with lectures and exhibits takes place every year in Hamburg or Berlin; elaborate ceremonies commemorate outstanding dates like April 24, the birthday of the Colonial Empire; and even special tourists' parties are beginning to visit the former colonies that have been opened to the Germans by the mandatories. German statesmen and foreign ministers do not permit the colonial question to be forgotten at meetings such as the one at Thoiry, and the German Government, with an ever watchful eye on the mandatory powers, officially protested to the Council of the League when Belgium incorporated for purposes of administration her mandate, Ruanda-Urundi, into the Belgium Congo early in the year 1926.

Analyzing this contemporary colonial movement in Germany, we find that it is chiefly actuated by two motives or two arguments as expressed in its literature: the one, purely psychologic and the other, politico-economic. For, second only to the universal desire of all Germans to absolve themselves from the accusation of war guilt, the colonialists long to exonerate themselves from the stigma of maladministration placed upon them by the Allies as a reason for depriving them of their colonies. It will be remembered that, when the Allies seized the German oversea territories at the close of the war, they stated officially that they were obliged to take possession of them because of Germany's dereliction in the field of colonial administration; a dereliction so patent, they claimed, that they "could not assume the responsibility of again abandoning 13,000,000 or 14,000,000 of natives to a fate from which the war had delivered them."[1] The Allies coupled this statement with specific charges against

[1] *Reply of Allied and Associated Powers to Observations of German Delegation on Conditions of Peace*, p. 1372.

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Germany's colonial rule such as cruelty, militarism, forced labor, slavery and the like. Smarting under this indictment, the German colonialists, and indeed many other Germans also, feel most keenly—whether rightly or wrongly—that only by the recovery of their colonies can they remove this stigma from their national honour. As one writer, after pointing to the actual work accomplished by the German colonial administration in education, in health, in economic and general welfare for the natives, expresses it, "We Germans owe it to ourselves and to our children, we owe it to our position among the nations that these reflexions upon our national honour be rebutted before the world."[1]

The second motive—and possibly the strongest—actuating the contemporary colonial movement in Germany is doubtless the politico-economic. The wish to recover the prestige among the other powers which the possession of colonies entails is a potent factor; the wish to have a hand, together with Great Britain, France, Italy and Japan, in world imperialism and in the civilizing and Europeanizing of the "backward peoples", especially now that Germany sits with the other nations upon the Council of the League of Nations and has a representative upon the Mandates Commission. Although the German colonialists feel that their country suffers from the loss of political prestige and of her position as a first-class power because she controls no oversea territories, they appear to feel more keenly the economic stringency which, they claim, that deprivation occasions her. For, like similar groups in other nations, many German colonialists continue to believe that "imperialism is the sovereign solution for providing the mother country with raw materials and food stuffs, with opportunities for marketing surplus goods, for investing surplus capital and for relieving surplus population."[2] Therefore, they view with alarm the difference created by the Peace Settlement between Germany's position in regard to oversea possessions and that of the other

[1] H. Schnee, *German Colonization Past and Future* (London, 1926), p. 50.

[2] See P. T. Moon, *Imperialism and World Politics* (New York, 1926), pp. 526 *et seq.*, for a discussion of the question, "Does Imperialism Pay?".

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colonial powers. For, today, for instance, Belgium, with a population of seven and a quarter million, has a colonial empire of nearly a million square miles; Portugal, with a population of six millions, has an empire of equal extent; France, with thirty-nine millions, has a colonial area of over four million square miles; Great Britain, with forty-four million inhabitants at home possesses an empire of thirteen million, six hundred and sixteen thousand square miles;[1] while Germany, the third greatest industrial power, with still a prolific population of some sixty-two millions, is excluded from the ranks of colonial nations.

To appreciate the economic pressure behind this present desire for colonies on the part of the colonial enthusiasts, however, it must be remembered that Germany is primarily an industrial country compelled to import, therefore, not only many foodstuffs but much of the raw material for her industry as well. The productivity of the country was not able to keep pace with the phenomenal industrial development subsequent to the Wars of Unification; German soil was insufficient to feed her ever-increasing population and the natural resources failed to feed her numerous machines.

For instance, in 1914, Germany could support only forty million of her sixty million population; twenty million were dependent upon the outside world. She had to import all of her coffee at the expense of 250,000,000 marks annually; all of her cocoa, amounting to 58,000,000 marks in 1913; vegetable fats and oils (from colonial sources) amounting to 326,130,000 marks in 1913; all of her tobacco amounting to 147,000,000 marks in 1913; and most of her fruits, for example, bananas, costing 11,000,000 marks in 1913.[2]

Again, for her industries, she had to import all of her raw cotton, for which she paid 600,000,000 marks; for the export of cotton goods occupied fourth place (after machinery, ironware and coal) in her list of exports, and she held, next to England and the United States, third place in the cotton manu-

[1] Moon, *op. cit.*, p. 515.

[2] Figures compiled from *Koloniales Jahrbuch, Kolonialhandbuch, Amtsblätter für die Schutzgebiete, Statistisches Jahrbuch für das Deutsche Reich.*

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facture of the world. Also, Germany had to import all of her raw rubber amounting to 113,000,000 marks annually, for she held, next to the United States, second place in the rubber industry; most of her wool, estimated at 368,000,000 marks; most of her raw materials for the leather industry, 453,000,000 marks; all of her raw copper amounting to 335,000,000 marks in 1913.[1]

By the year 1914, however, after a generation of experimentation, Germany's colonies were just commencing to meet some of the enormous and pressing needs of the mother country and to demonstrate the results of a scientific and stable colonial policy which had been inaugurated in 1906. For, although Germany's intensive development of her colonies had only existed since 1906 or 1900 at best, the results in 1914 were sufficient to create in some quarters a great faith in the potential economic strength of the oversea territories—whether justified or not. For example, by the year 1914, the German colonies were supplying to the mother country about one-fifth of her cocoa imports, one-twelfth of the vegetable fats and oils imported from colonial sources, one hundred per cent of her sisal hemp imports, one-fifth of her demand for rubber and a large proportion of her phosphates. More encouraging was the rapid increase in production between 1900 and 1914. To cite only the most impressive examples: the export of raw cotton to Germany from East Africa had increased ten times since 1902, the culture of vegetable fats and oils had doubled between 1905 and 1912, meeting a great need since these products are used for soap, butter, and machine oil; cocoa production had also increased one hundred per cent in Kamerun between 1908 and 1912, as had sisal hemp in East Africa, already mentioned.[2]

In addition to these economic resources, the German colonies possessed potentialities in minerals, the discovery of which had come as a surprise and the development of which had only just commenced. If diamonds could be found in the waste places of Southwest Africa in 1908 and great phosphate beds on the small

[1] Figures compiled from *Koloniales Jahrbuch, Kolonialhandbuch, Amtsblätter für die Schutzgebiete, Statistisches Jahrbuch für das Deutsche Reich.*

[2] *Ibid.*

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islands of the South Seas in 1910-1911, the question of what other treasures might be uncovered offered fascinating possibilities, especially as the extension of the railways and the application of technical science were rapidly opening up the vast hinterlands. The output of phosphate alone had risen from eighty-three to one hundred and ninety-three million kilograms between 1907 and 1912, while the diamond harvest from Southwest Africa formed in 1913 one-fifth of the entire African production of diamonds.

The natural result of all this economic development, as the colonialists saw it, was to attract more settlers to the colonies from Germany, thus offering a small outlet to her overstocked professional and artisan classes. Although most of the colonies were situated in the tropics, which rendered them unsuitable for white settlers, yet, owing to the constant scientific advance in making the tropics livable, the number of colonists tripled in the ten years from 1903 to 1913.

Furthermore, the colonialists claimed, the colonies possessed an added economic significance for Germany in the oversea markets which they provided and, it was expected, would provide in the future. It is true that German colonial trade had reached no impressive figure by 1914 and hopes in regard to it may well have been over-sanguine; nevertheless, many Germans point with pride to the fact that, in spite of the brevity of the colonial history, the trade had gradually and steadily increased from sixty million marks in the year 1902 to two hundred and sixty million marks in 1912, although it still continued to constitute only a small percentage of Germany's total foreign trade.

From the foregoing survey, it may be seen, at any rate, why the German expansionists hoped that the colonies would increase each year the contributions of foodstuffs and of raw materials of which Germany was so sorely in need; and today they find confirmation of their hope in the *Reports* of the mandatory powers controlling the former colonies, which show a significantly higher figure of colonial exports than in 1914.[1]

[1] Especially in Tanganyika, French Cameroons and Togoland. *Reports of Great Britain, France, Australia, 1925, To League of Nations, Mandates Commission.*

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Concretely, the *Reports* demonstrate the results from the many thousands of hectares of cocoa plantations established by the Germans in New Guinea, which were just reaching their bearing age in 1914. Also, the *Reports* call attention to the successful results of German attempts to develop cotton growing in Kamerun, Togoland and in some parts of East Africa; they mention the fact that there are as yet untouched oil-palm woods in the southeastern Cameroons; and that ten thousands of hectares in the Cameroons and yet greater stretches of territory in Tanganyika are suitable for raising ground nuts.

Cut off, at present, from the foodstuffs and the raw materials which might be supplied by her colonies, the German colonialists feel—whether rightly or wrongly we do not attempt to discuss—that, without colonies, Germany is at the mercy of the other powers who possess them and consequently control those commodities which she must import; and that, deprived of her colonial trade and resources with their opportunities for investment and development, she is, in comparison with the colonial powers, restricted in her economic life.[1] What is more, the colonialists claim, this restriction comes at a time when a rapidly reviving Germany demands wide channels of unrestrained trade in order to resuscitate her economic life, to stabilize her industry and to enable her to meet her obligations under the Dawes Plan; and it is in that coincidence that we perhaps can see most clearly the strength of the economic motive behind the present colonial movement in Germany. Nor does the fact that Germany today, as a member of the League, is admitted on an equal commercial basis with other nations into her former colonial possessions that are "B" mandates, and is, for instance, reconstructing a considerable trade with East Africa appear to weaken the force of this economic argument in the minds of the colonial enthusiasts.[2]

Finally, examining the colonial movement for its political or

[1] *Neue Kolonialpolitik,* Speech by H. Schacht, President of the German *Reichsbank,* March, 1926.

[2] A. Zache, "Das Deutsche Reich und sein Kolonialproblem" in *Der Kolonialdeutsche,* December 1, 1927. Dr. Seitz, "Reparationsagent und Kolonialfrage," *ibid.*

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official support and program, we observe, first, that members of the parties of the Right and the Center, and above all the People's Party, are naturally its leaders. These parties represent the old allies of imperialism, the Conservatives, the Center and the National Liberals and today count among their number many of the dispossessed colonial officials, administrators and professional men as well as the representatives of big business. On the other hand, the Communists are, of course, opposed to any attempt to regain the colonies but they constitute the only political party which is unanimously of that opinion. For the Social Democrats, the bitterest and severest critics of the entire colonial policy before the war, are, today, far from complete accord on the subject. Indeed, immediately after the War, the Socialists officially protested against the charges of colonial maladministration made by the Allies and many of them joined the short-lived *Gesellschaft für Kolonialen Fortschritt* (Society for Colonial Progress), a non-partisan organization which aimed to recover the colonies and to direct their entire management in the direction of the welfare of the native but which, also nevertheless, stressed the economic necessity of colonial possessions.[1] Today Socialist Party[2] leaders emphatically disavow any support of the contemporary colonial movement whatsoever; but, on the other hand, many prominent, individual Social Democrats openly endorse the re-entry of Germany into the colonial field, mainly that she may have an opportunity of sharing in the civilizing mission of the world. Thus, Noske, one of the most vociferous critics before the War, writes: "Germany must cooperate with the other nations in colonial affairs and has the moral right to demand the return of her colonies,"[3] and the recently published *Yearbook* of the *Gewerksschaftsbewegung* (Guild Movement) contains the following statement: "The exclusion of Germany from any participation in colonial activ-

[1] *Gesellschaft für Kolonialen Fortschritt. Satzung und Grundsätze* (Berlin, 1919).

[2] Statement in letter from H. von Gerlach, Jan. 9, 1927.

[3] Statement in letter from Adolph Braun, speaking for *Sozialdemokratische Partei Deutschlands*, Jan. 7, 1927.

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ities is considered by the parties of the Left as not only an injustice but also as an obstacle to the healthy development of her economic life."[1]

None of the political parties, however, has as yet made any official pronouncement on the subject nor has the government declared any policy whatsoever even though a German, Baron Kastl, now sits officially upon the Mandates Commission of the League. Since he took his seat in October, 1927, comment upon his plans, purposes or influence as indicative of party or governmental procedure in the colonial question has been rather conspicuously absent from the German press. Even the *Kolonialgesellschaft* itself, did not hail Germany's representation upon the Mandates Commission with any enthusiasm. Announcing the appointment of Dr. Kastl, who has served in the colonial service, mainly in Southwest Africa, since 1910, it acknowledged it as a "step forward for Germany, certainly, but as no reason for great joy and as still less reason for expectant hopes that Germany would regain her colonies or acquire mandates."[2] No doubt, it is considered unwise to arouse any friction with the other powers at this juncture by the advertisement of plans or policies. The speeches of such prominent party leaders as Dr. Schnee, former Governor of East Africa, of Dr. Schacht, President of the *Reichsbank*, of Dr. Seitz, President of the *Kolonialgesellschaft*, and of many others may be taken, nevertheless, to represent the position of a section, at least, of the parties of the Right; while the aforementioned official protest against Belgium's apparent assertion of sovereignty over her mandate Ruanda-Urundi, former Chancellor Luther's visit to South America in the fall of 1926 with the purpose of investigating the possibilities of colonial concessions, as well as the tenor of certain journals which reflect the views of Herr Stresemann and of the administration, distinctly denote the watchful interest of the government in the colonial question.

[1] *Koloniale Rundschau*, 1927, no. 1, p. 6. Other Social Democrats who publicly favor a colonial policy are, Quessell, Cohen, Schippell.

[2] *Der Kolonialdeutsche* (Organ of the *Kolonialgesellschaft*), September 15, 1927.

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And, just as there is as yet no official pronouncement of support from either the government or parties, so is there, also, no definitive promulgation of any plan or program for the recovery of the oversea possessions. From the literature and from the speakers of the movement, one gathers that the present objectives range all the way from the return of the lost territories *in toto* to Germany, to the more modest restitution of, perhaps, only one colony (preferably East Africa) to be administered as a mandate by Germany, and to the very general granting to Germany of colonial opportunity or economic concession in any part of the world, or else a share in a future internationalization of colonial territories. Whatever the objectives of a colonial policy mentioned in Germany today, however, it is distinctly noticeable that they stress no longer imperialistic or aggressive aims but rather the economic uses and the cultural responsibilities of oversea possessions.[1]

Such an emphasis, especially on the part of members from the parties of the Right, would seem to carry a wider and a more universal appeal both at home and abroad and to insure a greater support in republican Germany for the contemporary colonial movement. On the other hand, however, both signs of apathy and expressions of positive antagonism to a colonial policy are not lacking today among the German populace as a whole. For instance, the plan that Germany again receive her colonies or a portion of them either outright or as mandates, so strongly urged by men like Dr. Schnee, is opposed by many financial and economic experts who insist that colonial or mandated territories would at present prove too costly for Germany. Much capital, they argue, would be required for their exploitation and it is conceivable that they could not yield any returns of substantial worth within ten years. Hence they feel that the creation of capital at home and its employment abroad is Germany's best policy under her present liabilities. At the same time, these objectors to the regaining of the former colonial territories agree that Germany needs a place for surplus population in the future and they favor the studying of possibilities

[1] *Koloniale Rundschau*, 1927, no. 1, p. 2; 1924, no. 4, p. 122.

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of block concessions in South America already undertaken to a slight degree. For investigations are in progress in Peru, Chili and in Colombia where those governments are said to be contemplating the transfer of considerable areas in the form of concessions. German emigration, however, is as yet slight (29,687 in 1926) and the movement can only be said to be in its initial stages. The question of colonization by emigration is quite distinct, moreover, from that of the recovery of the mandated territories.[1] Thus, whether the contemporary colonial movement, intensively active to be sure but restricted more or less to a certain definite and interested group, will ultimately prevail among the German people as a whole only the future can determine.[2]

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[1] See Helmer Key, *The New Colonial Policy* (London, 1927), trans. from the Swedish by E. Classen.

[2] Typical of the divided and uncertain state of public opinion is the result of a questionnaire sent out by the *Auswärtige Institut* at Hamburg and published, since this article was written, in the December issue of *Europäische Gespräche*, 1927. Briefly, it consists of three questions: (a) shall Germany strive for colonies, (b) shall she strive for them in the form of mandates, (c) shall she limit her colonial activity to demanding equal rights with other nations in all colonial territories as well as mandates. Although sent to two hundred officials of the *Reich*, only fifty replied. Their answers were almost evenly divided between the affirmative and the negative in regard to the waging of any colonial activity. The affirmative, for the most part, endorses the mandate form of colonies as the best that can be done under the circumstances.

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HISTORIOGRAPHY AND WAR GUILT

IT is not difficult to see why the controversy over the origin of the World War continues to attract such widespread attention. Among historical and diplomatic questions that involve the policies of all the great powers it takes first rank because of the importance and destructiveness of the war to which it furnishes the prelude. Moreover, the clear crossing of interests and the frantic struggles of individual diplomats, so clearly portrayed in the numerous documents, provide an illuminating lesson in the functioning of diplomatic processes at the most critical period in modern history.

The question is also of grave practical import. Numerous investigators, and whole nations, have come to think of the dispute in terms of the validity of the Treaty of Versailles, the value of the League of Nations or the truth of socialism. Through the unfortunate blunder by which the financial clauses of the Treaty of Versailles were based on the assumption that Germany and her allies were guilty of starting the war, both resentment and hope were aroused in Germany: healthy resentment at the accusation and irrepressible hope that the penalties of the treaty would be raised if the accusation were proved unjust. Hence the enormous flood of German material on the outbreak of the war, which in turn brought forth replies from other countries and stimulated opponents of the treaty in all countries to renewed efforts for revision. In a larger sense, the general theories of socialism, to the effect that capitalistic governments are necessarily warlike, depend upon the proofs which the Bolsheviki and others advance in the field of pre-war diplomacy. The bourgeois pacifists, too, insist that their theory of the outbreak of the war—that the lack of international institutions prevented an adjustment of the difficulties—shows the necessity of the League of Nations to a peace-loving world.

But if the issues at stake are vital and fundamental, probably because of this very fact, the logic used and the historical principles applied in the arguments seem to have advanced little

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beyond the partisan stage. In spite of the fact that more diplomatic documents and more personal records are now available than contemporaries of great events have ever before enjoyed, the conclusions presented in the vast literature of the subject seem regrettably similar to the propaganda of war time. We are still reading of "plots", "wicked diplomats", "lies", and "militarism". Although one sensational story after another has been discredited, the latest yarn still upsets the balance of historical thought.

The truth is that so many facts on both sides of the case have been printed that the investigators have as much freedom of choice in making decisions as they had when only a few facts were available. Now, as then, the national, racial and institutional prejudices of historical writers distort their judgment, the very plenitude of evidence furnishing the material required to "prove" any point of view correct. These prejudices have their roots in events and ideas that were current long before 1914 and became so ingrained during the war that they survive all shocks. Obviously what is lacking is the sound logic and the safe old historical principles that have to be applied to any research problem. We need to restate those principles and apply them to the question in dispute if we are ever to reach a full understanding of the origin of the European conflict.

The first principle of historical construction is this: after ascertaining the facts, make generalizations cautiously. Such a procedure seems imperatively necessary if the historian is to resolve the difficulties inherent in this problem. For he must analyze and weigh the policies of half a dozen great powers, of a dozen minor states and of a hundred different diplomats. If he is to achieve a logical interpretation of these policies he must decide whether a particular policy was temporary and personal, or permanent and vital, whether it was designed to sway the policy of an unmanageable ally or to prevent a harmful step by a rival power. Was Grey's pre-war policy of preventing the formation of two firm groups of powers an ideal or a practice? Was it his own or the cabinet's? Was it used to hold back France and Russia or to keep Germany from striking in fear? Which of the settlement proposals advanced in

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July, 1914, by the British Government and by the German Chancellor were meant seriously? Which were mere *ballons d'essai* or were framed to embarrass opponents? In every case a hundred such questions must be answered before the historian should venture on the construction of a narrative.

Unfortunately, the evidence upon which he can base answers to these questions is not all available. The Russian and the French documents are quite incomplete, the existing compilations having been selected by either violent partisans or violent opponents of the two governments; the *Livre Noir* and Stieve's publications are no less fragmentary and biased than the French *Livres Jaunes*. The English and Austrian records of the crisis of 1914 have been published, but not those dealing with the earlier period. The numerous conversations and oral instructions that were not written down at the time and have since grown dim in the memory of those concerned in them are irretrievably lost.

Nor can any documents be said to be conclusive evidence. For they are made up of words and words are as elusive as figures. For example, Bethmann Hollweg sent a telegram to the German ambassador at Vienna, instructing him to admonish Berchtold against a policy likely to result in a war for which the Central Powers would be blamed. That telegram has been interpreted in two different ways, one school claiming that it proved the Chancellor's willingness to have the war if it could not be attributed to Germany, the other maintaining that it proved his desire for peace. Both interpretations cannot be correct. He who would judge the telegram properly must transform himself into the Chancellor as he was at the time, a feat which the author of the telegram himself was unable to perform when he wrote his memoirs. Obviously, the investigator who wishes to understand that document must not be content to rely on words.

It is a significant fact that in the whole collection of documents on the subject not a single statement has been found to show that any one of the responsible officials desired and planned a European war. But circumstantial evidence, whether in a court-room or in a historical record, must be handled with care if it is to be used to prove anything.

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The diplomatic memoirs demand even greater circumspection on the part of the investigator. Anyone who talked with the men who shaped events in 1914 would soon find out how devastating the lurid passions of war were to the recollection of events that happened before it. Bethmann Hollweg was confused about the date when he received the text of the Austrian ultimatum. Grey omitted mention of many important episodes, remembering chiefly the reliance he placed on his conference proposals and touching only obscurely on other matters. Sukhomlinov, indeed, has presented several versions of the outbreak of the war, one at his trial, another in his memoirs and still others in interviews, and none of them are trustworthy. In brief, the diplomatic memoirs are personal, human records, written often without the documents and always in a subjective, partisan vein. Hence they are dangerous and misleading sources upon which to base conclusions.

But if the primary sources are misleading, the works of historians are triply treacherous ground to stand on. For each of the historians who have written on this subject has adopted a point of view that has warped his judgment to a greater or less extent. He may have written from the point of view of a practical diplomat, of an interested party, of a disinterested recorder of events, of a historian indifferent to moral questions, of a historian determined to judge and condemn, of a socialist, of a pacifist, or of a writer of general sociological history. In every case, his account is biased; no one should accept his conclusions without first checking them up by every known historical method.

The history of research into this complicated question is filled with horrible examples of hasty generalization from insufficient and untrustworthy evidence. The story of the Potsdam Conference, the theory that "mobilization means war", the Lichnowsky indiscretions, and the confession that the Serbian cabinet knew of the plot to assassinate the Archduke a month before June 28th—these, and a hundred other "revelations" like them have been accepted by historians and made the basis of far-reaching conclusions. Caution, and yet more caution, is the only safe guide through these incomplete, slippery records and faulty interpretations.

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In the past, one of the chief temptations to careless exposition of the diplomatic conflict has been the great number of general terms in use. Nothing would help to produce more careful reasoning than the application of the eighteenth-century axiom, "Start with definitions." Vague terms such as militarism, navalism, imperialism, hegemony, balance of power, encirclement, blame, guilt, responsibility, aggression, civilization, barbarism mean little if not defined. Yet how many authors have stopped to define militarism? Does it mean excessive armament, control of the civil branch of government by the military, or merely superior skill on the field of battle? And aggression! Who has ever worked out a satisfactory distinction between offence and defence, or satisfactory tests by which each may be recognized? The investigators are pretty well agreed that the Austro-Hungarian declaration of war on Serbia, the Russian general mobilization, and the German declaration of war on Russia were the most important steps that led to the war. Yet who can decide whether those measures were aggressive or defensive?

What is meant by the terms "blame", "guilt", and "responsibility"? Does "guilt" mean moral, political, or legal guilt? If one nation or a group of nations be judged more guilty than others, is the government alone responsible, or are the common people, political parties or particular social classes to blame? If the responsibility is traced to the government, does that word mean the popular assembly, the cabinet, the foreign office, the foreign minister or the titular head of the government? If the blame is laid on the shoulders of the foreign minister, one must ask whether he was a free agent or whether he had to consult with subordinate officials, with other cabinet members, with industrial leaders, or with representatives of the public. For example, who was it that determined German pre-war policy and dictated the steps taken in the crisis of 1914—was it the Emperor, Bethmann Hollweg, Jagow, Tirpitz, Thyssen, Class, Delbrück or Bassermann?

That these queries are not irrelevant is obvious if we examine the literature. Barnes' account of the great Serbian "plot" could not withstand an inquiry as to the names of the responsi-

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ble statesmen who followed this policy. Grey's interpretation of the origin of the war would not hold water if he had defined "German militarism". And Poincaré's latest book would not carry conviction if he had explained what he meant by "civilization" and "barbarism". Nearly all of the books and articles that have appeared suffer from the same lack of clarity in their terms.

Another reason why the historians have swerved far from the path of historical reality is to be found in the romantic idea that diplomats have almost superhuman powers. So often have these officials been depicted as omnipotent, omniscient devils plotting sinister, labyrinthian schemes against their neighbors that it is now difficult to picture them as ordinary mortals. Yet the obvious truth is that common emotions and current opinion stirred in them as in everyone else. Fear, hatred, loss of sleep, anxiety for peace, dread of the responsibility for fateful decisions, inability to read the past—not to mention the future—and other quite human characteristics played a large part in determining their decisions.

Indeed, it is difficult to overestimate the influence of the purely human factors in the crisis of 1914. William II and Bethmann Hollweg were swept off their feet by anger at the assassination of Franz Ferdinand. Pourtalès, the German ambassador to Russia, who was not sure of himself, several times through over-anxiety gave Sasonov the wrong impression of German intentions. When the crisis came, he broke down and wept on Sasonov's shoulder. Isvolsky, the Russian ambassador to France, allowed his resentment at a diplomatic defeat in 1909 to make him into a violent anti-German. It is extremely doubtful whether Poincaré had the foresight and the cleverness to swing the ambitious projects that are now being attributed to him. Grey, who did not understand the complex problems of the Balkans, became prejudiced against Austria-Hungary in 1908 and never thereafter tried to do full justice to the Austro-Hungarian point of view. That these personal considerations had much to do with the outbreak of the war can be seen if one remembers that Grey's condemnation of Austro-Hungarian policy led him to encourage Russia to mobilize, that

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the German statesmen's anger swung them out of their course long enough to give Austria-Hungary a *carte blanche*, and that Pourtalès' awkwardness was the immediate cause of Sasonov's decision to order full mobilization.

The various foreign offices, too, were in the hands of fallible human beings. The Austrian case was miserably handled, particularly in regard to Italian sensibilities and English opinion. The German ambassadors, badly supported by the foreign-office "machine" in Berlin, committed numerous blunders. In London the divergence of opinion between the foreign office and the cabinet resulted in an ambiguous course that was misinterpreted by both friend and foe. In no country did Bismarckian rigor manifest itself in the operations of the foreign office.

In general, these diplomats seem to have felt the weight of responsibility for world peace to a degree greater than we are now taught to believe. They understood, too, that the outbreak of war would mean the loss of control over policy to men like Kitchener, Moltke or Conrad, who would wreck the best laid diplomatic plans. That they were fumbling about in the darkness is a sounder interpretation of their acts than the view that they were masterfully directing far-flung schemes for world hegemony. Practically every book written by diplomats expresses the surprise they felt at the exaggerated influence and the fantastic scheming attributed to them in history books.

The policies, as well as the figures, of the diplomats have been treated unrealistically by the historians. Indeed, it often seems impossible to find a historian who is historical-minded about this question. They do not strive for penetrating insight into the ideas and policies that prevailed in 1914 but rather for personal judgments by some unattainable ideal or by the standards popularly supposed to govern the actions of statesmen of our own day.

One can have no quarrel with historians who follow Acton in the attempt to apply absolute standards to the affairs of men, irrespective of time, place and circumstance. What are those absolute standards? Peace, or war, at any price, open diplomacy, candid statements to the public and to the potential

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enemy, complete fidelity to the constitution—such are the absolute standards which European statesmen are accused of sinning against. But, even though we accept the standards, we cannot fail to note that the statesmen of every country sinned together and in the same measure. Though the nationalistic ideals of the time may have been low compared with Olympian precepts, they were at least as high as those of any previous age or of the present time. The age, not the man, is to blame for nationalism and secret diplomacy.

The facts, then, must be described "*wie sie eigentlich geworden.*" If the German historian desires to show that the principle that "mobilization means war" can be applied to Russian policy on July 30th, 1914, he must prove that it was so understood by the statesmen at that time. In fact, Sasonov, Grey, Jagow and other diplomats had no such clear idea of mobilization. In the same way, the Entente argument that Austria-Hungary was the passive tool of German policy cannot be accepted because the records show clearly that there was no such relationship between the two in July, 1914.

It has often been stated that Germany, France or Russia started the war in order to acquire colonies, outlets to the sea, or some definite piece of territory, the proof of the statement being confined to proof that the country referred to desired to acquire the territory. This sort of faulty reasoning, so common during the war, not only does not prove that Germany, for instance, was willing to make war for the sake of acquiring colonies, but it totally disregards the course of events. For nowhere in the documents can one find a German decision to make war for that purpose. It is the same with the French desire for *revanche;* the desire existed, as documents both before and after the outbreak of war prove, but did it dictate French policy in 1914 or at any time? In the case of Russia, the minutes of a Crown Council of February, 1914, at which the statement was made that Russia could obtain the Straits only "in the event of international complications", are cited as proof that Russia precipitated the conflict in 1914 in order to obtain the Straits. What those words really prove, and the only thing they prove, is that the Russian ministers of state de-

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sired to get the Straits for their country, not that they were willing to bring about a European war to get them, and still less that they actually did precipitate the struggle in 1914.

The same test of actuality must be applied to those numerous cases in which the evidence is incomplete. In discussing Poincaré's visit to Russia in July, 1914, the historian must await the evidence before he can pass judgment on what was said and done during the visit. The French President was not there to weaken Russia; quite the contrary. But we have no evidence to show that he deliberately incited the Russian Government to make war. And in the absence of evidence no conclusion can be reached. For the last few years Poincaré has been subjected to severe criticism for his attitude during that visit; the Germans and the French Socialists have sought to use the dangerous "argument for silence" to prove that he egged the Russians on. But we are now no more entitled to use enemy prejudice and Socialist suspicion to fill in the gaps in the evidence than the Entente historians were entitled to use French prejudices and German Socialist propaganda, as they once did, to prove Germany guilty.

Sometimes historians argue that the history of other wars will furnish the clues necessary to unlock the undocumented mysteries of this one. But the idea has only a general, intangible applicability. Indeed, there is now as much uncertainty about the origin of the Seven Years' War or of the Franco-Prussian War as there is about the origin of the World War. When a German begins to argue with these weapons one can expect to hear a story about "Gallic excitability"; when a Frenchman so argues, one may look for the "Prussian militarism" theory. In either case the appeal to parallels is usually the prelude to a recital of deep-rooted prejudices. Nothing will really take the place of evidence.

Nor can we rely on other than first-hand evidence. The so-called "Belgian Documents", for example, are unreliable sources because they passed through so many hands before they were published. Originally they were reports of Belgian diplomatic agents to the foreign office in Brussels; then they were rewritten, with copious omissions, for the information of

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other members of the diplomatic service. In this form they were published by the Germans. Such evidence, which should be suspected by every historian worthy of the name, has been treated as though it constituted a reliable record of actual policies. Yet the impressions of the Belgian diplomats were none too accurate in the beginning; after they had been garbled in Brussels they were doubly inaccurate. In the same way, statements about French policy made in dispatches sent by Isvolsky to Sasonov have frequently been accepted as statements of French policy, regardless of the unreliability of the Russian diplomat and the distortion involved in translation.

In other words, it may be difficult to ascertain just what did happen in the various crises that led up to the war, but the historian is never justified in the use of anything but first-hand evidence about what happened in a particular place at a particular time or in the use of material from the swollen glands of prejudice, where evidence is lacking. Historiography, if it means aught, means that.

The task of the historian who attempts to solve the question of responsibility is especially difficult because the path that he must follow is so tortuous. He must define "responsibility". He must keep in mind that the statesmen of Europe in 1914 were fallible human beings, that they were dependent for information and advice upon a great number of individuals of varying abilities and views, that they shared the common conception of war as "the continuation of diplomacy by other means", and that none of them expected the war would cost Europe what it did. And that is not all. Many other reservations have to be made before direct responsibility can be laid at the door of any one power or group of powers.

In the first place, were the statesmen of 1914 responsible for the diplomatic situation, or had they inherited it from their predecessors? Bethmann Hollweg came into office in 1909, Sasonov in 1910. Both found a system of alliances and a policy dictated by what they considered national interests. Both tried to perform their appointed tasks without a war. Neither can be held responsible for the unexpected turn that events took. And if Grey and Poincaré can be held respon-

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sible for strengthening the Entente, it still remains true that any other possible ministers, say Caillaux and Morley, would also have made war rather than let their allies be crushed. Given the Entente, which neither Grey nor Poincaré created and which was considered an essential element of French and British foreign policy in the twentieth century, the progressive strengthening of this combination as Germany grew stronger does not constitute aggression. The fact that these four statesmen were following policies framed by their predecessors diminishes their share of the responsibility.

In the second place, these men were hampered by the system of alliances. Whenever England and Germany became too friendly, France and Russia interfered. The latter were not so anxious to ruin Germany as they were to prevent being exposed to a fatal German attack. In the same way Germany was bound to Austria-Hungary, her only ally. The German Government did not dare to break the alliance, no matter what foolishness the Austrians indulged in. The effect of the existence of the alliance on Austro-Hungarian and on Russian policy was a certain recklessness that would have been absent if they had not been able to rely on the military support of their rather unwilling allies. Condemnation of the rashness of the two eastern governments as well as of the support given them by the western governments must be tempered by consideration of the fact of alliances.

Then, too, the historian must decide whether a given act was the result of intent or of blunder and accident. Did Sasonov decide to mobilize the whole Russian army because he thought the time opportune for war, as Barnes would have us believe, or because he misinterpreted the "friendly warning" from the German Chancellor when it was awkwardly presented by Pourtalès? Did he rate the German army so low that he thought the Russian army could overwhelm it by accelerating mobilization or was he merely trying to forestall the German attack that he erroneously thought inevitable? Did the German Chancellor reject Grey's conference proposals because he wanted war or because Austria-Hungary, by antagonizing Italy, had made a hostile majority against the Central Powers? Did Grey encour-

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age Russian mobilization because he knew that "mobilization means war" or because he misjudged the merits of the Austro-Hungarian case and could see no act of war in Russian mobilization? These distinctions, marking the indefinite boundary between intent and error, are fundamental to any rational judgment of responsibilities.

When all reservations have been made, and it is found that one government on its own initiative consciously and deliberately committed an aggressive act, there remains the question whether that act was thought of as a measure of offense or of defense. Suppose that the historian could show that the Government of Austria-Hungary worded the ultimatum to Serbia in such a way as to make it unacceptable, in the full consciousness that an Austro-Serbian war and from it a European war would result. Would he then be entitled to regard Austria-Hungary as the instigator of the World War? The answer would be in the affirmative only in case the Austro-Hungarian statesmen were planning the destruction of Serbia as part of a design to control the Balkans; the answer would be in the negative if it were found that they thought they were defending themselves against destruction at the hands of the Slavs in general and of the Serbians in particular. What seems like aggression may be merely a defensive act in the mind of the statesman; the historian cannot condemn him without making reservations that invalidate the condemnation.

"War guilt", then, is very difficult to establish. If it is to be established, direct evidence or an iron chain of circumstantial evidence must be discovered. Hitherto, in spite of the enormous output of historical literature on the subject, nothing resembling a conclusive case has been made out against the government of any power or group of powers.

But if it is improbable that the guilty party—if there was one—can ever be discovered, and if the search for the guilty party has led nearly every previous investigator far astray, why should historians continue under the influence of the blame complex? Of course, the natural, instinctive reaction of the peoples of Europe to the pain and stress of the war was to place the blame for their troubles on some enemy individual or

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government. This was inevitable, particularly in view of the fact that public opinion in each country had been introduced to the "evil designs of the enemy" long before 1914. The strange thing is that historians, especially American historians, should give credence to the irrational arguments inspired by the passions of war on either side and should follow the false method of finding some one to blame for the war. If they wish to trace the exact course of events that led up to the catastrophe in 1914, they must disregard the question of responsibility until they have ascertained the facts.

In the meantime, if the investigators insist on starting with a general theory, let them see diplomacy as it was in 1914, namely a sort of game with truly tremendous stakes. Each of the governments of 1914 was trying to reach certain goals, without war if possible. None of them wanted war for war's sake, yet none of them would let the opponent win without an armed struggle. Since the most direct method of winning the game was an attack on the opponent, each of them suspected the other of planning an overwhelming attack. Naturally, though they preferred peace to war, they would fight rather than submit to invasion or allow their control over foreign markets and sources of raw materials to be endangered.

International politics, so viewed, is not a pretty spectacle. The weaker nations, such as Turkey and Persia, had no guarantee of existence. The great powers kept the peace more out of fear of the enemy than from desire for peace. They refrained from war only as long as the game did not go against them. But there is little questioning about blame in this attitude: if certain things happen, war ensues.

From this vantage point the historian can survey the manoeuvers of pre-war diplomacy without passion or prejudice. Freed from the distracting urge to hunt down criminals, he can measure dispassionately the shifts in policy and the tiltings of the balance of power. He can watch the interplay of policies and the surging of hatred, fear and suspicion. He can see Germany and Great Britain recoil in fear in 1911; he can watch the diplomatic struggle of 1914 grow more and more intense and the ideas less and less rational. Nothing shocks or

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benumbs his mental faculties; nothing destroys the clearness of his vision.

For those who insist on finding the instigators of the war, those who are not content to observe but must also judge, another attitude may be recommended. Let them apply their standards to the actions of the various governments. Then, after they have made their judgments, let them list the sins of every government in parallel rows. That government which committed the most "deadly sins" will be the instigator of the war. But let them be careful to judge impartially. When they find one government charged with a sin for which there is no similar or equivalent misdemeanor in the lists of the others, let them look until they find one. It is there, in the records. Surely the intelligent thing to do is to look for it rather than to stop with glazed eyes and choking throat at the point where one government has overstepped the bounds of pacific policy.

In short, research into the origin of the World War should be conducted in one of two definite courses. The investigator should either discard all thought of seeking criminals, or else balance the crimes of one against the crimes of the other. Only in these two ways can the problem be approached without danger that the historical world war that has arisen over it will be prolonged indefinitely. Indeed, an armistice in that war is now in order. And the peace treaty to follow should not be drawn up until that remote day when all the facts have been ascertained and organized. Even then, no matter which side wins, the historians' peace treaty, out of respect for the numerous casualties among the publicists of both sides, should contain no Article 231.

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SIXTY YEARS OF CANADIAN CONFEDERATION

THE fiftieth anniversary of the formation of the Dominion of Canada passed almost unnoticed in the turmoil of the World War. The Dominion and her neighbors in 1917 were too much concerned in the valiant work of the C. E. F. on the western front, and in the preparation of the A. E. F. for the same destination to indulge in retrospection on the accomplishments of the past. The year 1927, however, offered a more favorable opportunity, and on April 14 last, shortly before the adjournment of Parliament, it was resolved,

> that as Canada is approaching the sixtieth anniversary of her founding as a Dominion, the Parliament of Canada place on record its deep appreciation of the achievements of the fathers of confederation and with united voice express its faith and confidence in the future of this our country, and its development as a member of the British commonwealth of nations, owing allegiance to His Majesty the King.

Parliament further expressed hope that the occasion would "afford a clearer vision of our aspirations and ideals, to the end that from sea to sea there may be developed a robust Canadian spirit, and in all things Canadian, profounder national unity." The anniversary observances of last July were well covered by the Associated Press, and the leading newspapers and periodicals of the United States gave considerable space to the material progress and achievements of the Dominion. Interest in the constitutional and political development of our northern neighbor, however, has been less in evidence.

The aftermath of a great war is in many respects unfavorable to anniversary observances or to the taking of national inventories. The United States celebrated the centennial of its independence in 1876 amid the demoralization of reconstruction in an atmosphere reeking with political corruption. The great panic of 1873 had left its economic wreckage on every side. While there are some resemblances to that situation, Canadian

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conditions in 1927 are, on the whole, much more wholesome. It is not surprising, however, that during the debates of the last session one of the members sourly asked, "Why should we spend $250,000 of the taxpayers' money for such a celebration, when several hundred thousands of our citizens over in the United States will celebrate the anniversary of the Declaration of Independence on the Fourth of July? . . . With the economic problems now confronting this country I see no occasion to shout from the housetops about our status and our diamond jubilee."

Sixty years is a short span in the life of nations and glancing back over the accomplishments of this period, any reasonable person will conclude that the Dominion had cause for celebration, even if confronted with political and economic problems which will tax the statesmanship of coming generations. Confederation became effective July 1, 1867, and was in no small degree a product of our own Civil War. The Quebec Conference met in 1864, when the outlook for the American Union was still dark and the debates on its recommendations took place at Ottawa during those dreary winter months when the Army of the Potomac was slowly pounding the fortifications around Petersburg and when there were many who believed national authority could never, even then, be fully restored. Relations were strained because of the *Alabama* depredations, the attitude of the British press, and by minor infractions of neutrality along the borders. Irish immigration to the United States had been heavy, was politically powerful, and its influence certainly not calculated to promote Anglo-American friendship. When Attorney-General John A. Macdonald opened the debate in Parliament on February 6, 1865, he stated very frankly that the ill-feeling between Great Britain and the United States was an all-important factor in the situation. The Reciprocity Treaty was to be abrogated, a passport system had already been introduced on the borders, the bonded goods privilege was in danger, and at any moment Canadian merchants might lose the privilege of carrying goods across United States territory. Union was therefore an imperative necessity. We must, said another member, in view of this un-

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friendly attitude, "secure a winter road to the great highway of the world's commerce. . . . If a Canadian goes now to Nova Scotia or New Brunswick, or if a citizen of those provinces comes here, it is like going to a foreign country. The customs officer meets you at the frontier, arrests your progress, and levies his imposts on your effects. But the proposal now before us is to throw down all barriers between the provinces . . . ."

Any person who has read the debates on confederation, which as a discussion of constitutional theory deserve to be better known in this country, must observe the constant reiteration of the phrase "in the event of hostilities with the United States." Its absence from present-day discussion is in itself one of the great gains of the last sixty years. But even with the possibility of trouble with the United States in the background, the spirits of some great republicans were present. Madison, Hamilton and other fathers of the Constitution of 1787 were constantly invoked as authorities and *The Federalist* was a frequently quoted text-book on constitutional theory. "It is the fashion now to enlarge on the defects of the Constitution of the United States," said Mr. Macdonald, "but I am not one of those who look upon it as a failure. I think and believe that it is one of the most skillful works which human intelligence ever created; is one of the most perfect organizations that ever governed a free people. . . . We can now take advantage of the experience of the last seventy-eight years."

That experience produced important differences in the Canadian system. Recognition of the sovereignty of the King of Great Britain was a basic factor. Responsible government seemed preferable to the American plan of establishing a "presidential despot" with military command, a vast patronage, and the veto. Above all, said Macdonald, the danger of the state rights theory had been avoided as result of the experience of the United States.

> They commenced, in fact, at the wrong end. They declared by their Constitution that each State was a sovereignty for itself, except for delegated powers. . . . Here we have adopted a different system. We have strengthened the General Government.

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> We have given the General Legislature all the great subjects of legislation . . . expressly declared that all subjects of general interest not distinctly and exclusively conferred on the local governments and local legislatures, shall be conferred upon the General Government and Legislature. We have thus avoided that great source of weakness which has been the cause of the disruption of the United States. We have avoided all conflict of jurisdiction and authority.

Sectional interests were equalized in the Senate by allotting twenty-four members to each of the three great areas, Upper and Lower Canada, and the Maritime Provinces. The peculiar religious and racial interests of Quebec were recognized and granted constitutional protection.

How has the system worked? As a plan of constitutional government it has been amended in only two or three minor details and its fundamental principles have remained untouched. Compared with the first sixty years of our own Federal Constitution, changed in important respects by two amendments, and greatly modified in spirit and practice by the great interpretive decisions of John Marshall, the Canadian enactment has shown remarkable stability. That it is not regarded, however, as a definitive system is evident by the resolutions introduced in the House of Commons by a western member on March 9, 1927, declaring, "that in view of,

a. the constitutional developments of the last sixty years;

b. the dissatisfaction of certain provinces;

c. the changed conditions in industry, commerce and finance not contemplated at the time of Confederation;

d. the action of the Senate in preventing the enactment of popular legislation;

there should be appointed a special select committee to consider what amendments might be made in the British North America Act which, while conserving the principles of Confederation, would enable us more adequately to cope with the complicated problems which now confront Canada." The debate which followed brought out the fact that there were a number of specific objections to the existing plan of govern-

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ment as well as a widespread sentiment that, compared with the United States or Great Britain, the constitutional system failed to keep pace with social and economic developments. To the outsider, however, it would appear that Canada's present-day troubles lie rather in the sphere of political morals and public policy, or in certain other fundamental considerations which no Parliament or Convention is capable of changing.

In most matters of government, the Dominion, in spite of a somewhat holier-than-thou attitude on the part of many of its people and most of its journals, has probably shown no superiority to the United States. One of our historians caused something of a tempest a dozen years ago by showing that the fathers of the Constitution represented the interests which were sure to profit by its adoption, and that in some instances the gains were personal. Several of the fathers of Confederation have, however, suffered a much worse fate at the hands of subsequent historians. As in our own case, the opening of the continent afforded chances for private exploitation, and Canada has also furnished the familiar story of wasted public resources and private enrichment. Practical politics has been of an especially realistic type as the history of numerous contested elections shows. The spoils system has flourished, and recent investigations show the existence of a great, overmanned, badly recruited, and ill organized civil service. The customs scandals of 1926 are as malodorous as those in our own prohibition enforcement service. Municipal mismanagement has been common and especially serious in view of the decided trend toward public ownership of utilities. It has, however, never been as degraded as in some of the worse governed of our own cities. The pork barrel has been used in doubtful elections with an effrontery never exceeded on this side of the line, and in the case of government railroad-building its effects have been especially pernicious. Perhaps the policy of Provincial development of hydro-electric properties will prove superior to that private ownership which is still the reliance of our own people, but it is too soon, as yet, to pass judgment. Political morality has been, in general, much the same. "We have," says Stephen Leacock, "gone astray in the wilderness on the false

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estimate that we have placed upon wealth and mere pecuniary success. We have tolerated with a smile the bribery of voters, the corrupting of constituencies, the swollen profits of favored contractors, the fortunes made in and from political life, the honors heaped upon men with no other recommendation to their credit than their bank account." Election campaigns have shown that both peoples have about the same fondness for hokum and flag-waving, and about the same degree of political gullibility. Probably, however, the Canadian population has been less subject to waves of popular emotion, has shown less tendency to hero worship, and certainly shows less inclination to go into hysterics over the misfortunes of prominent murderers and stick-up men. The Dominion has also developed an excellent system of public education—barring its sectarian features—and has been less subject to the quackeries which have been rampant on this side of the line. In the field of banking and finance, Canada had long before the advent of our Federal Reserve System established a banking system which was a model of stability and honesty.

In one field, that of criminal jurisprudence and administration, Canadian superiority has been pronounced, and the effects of that superiority have been perceptible in several related ones. Under Confederation, criminal law became a matter of Federal jurisdiction. The certainty and impartiality of Canadian criminal justice, and the dignity of its administration, are in striking contrast to conditions in the United States where slackness, technicality and maudlin sentimentality have tended to make the criminal courts mere purveyors of sensation to low grade journalism, with an appalling amount of violent crime as the inevitable result. Canada's record in policing the frontier was also vastly better than our own. This resolved itself essentially into a question of proper administration of justice. Compared with the "Wild West" of our own history, Canada presents an unromantic picture. But if the two-gun bad man, the train robber, the vigilance committee, the lynching bee, the Indian wars, are all lacking, it is because the criminal was disposed of by prompt and orderly judicial process and the Indian decently treated and his rights respected. Only two petty In-

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dian outbreaks occurred in the history of the Dominion. The services of the Royal Northwest Mounted Police, recently reorganized and re-named, have been the theme of well-deserved eulogy.

As for 1927, Canada is unquestionably far from satisfied with its institutions, their practical working, or the results attained. There are centers of active discontent; business depression until well into the year, has been widespread; emigration to the United States for the last six years has caused genuine alarm. A natural result has been the questioning of certain features of Confederation itself.

Quebec has always been a problem. French-speaking, Roman Catholic, unprogressive, the province has retained an individuality of its own. "Americanization" has been a bugbear to loyal Canadians. The American magazine especially, whether of the uplift or smut variety, has carried a vast freight of disturbing influences as well as competing advertisements, and has been a constant theme of Parliamentary debate. American moving pictures have caused much more perturbation than the penetration of American capital. The French-Canadian, however, has been as impervious to Americanization as to any other alien influence. "Thanks to his religion, his languages his separate schools, his traditions," said one of the able Parliamentary representatives of the race in a recent debate, "he is the only moral and social obstacle to the penetration of Yankeeism . . . which finds an enemy everywhere there is a French word pronounced, everywhere there is a school conducted according to our conscientious beliefs, everywhere there is an effort on the part of a French-Canadian group to maintain those traditions." Confederation allayed some of the racial hostility which prevailed under the old system, but has by no means eliminated it. Quebec has a radically different viewpoint in external affairs. The war policy of 1914–18 found small support in that Province and its effects, even where indirect, were regarded as the result of deliberate injustice. This participation in imperial affairs was bitterly assailed on June 15, 1926, by Mr. Bourassa, one of the keenest thinkers and ablest debaters in the House of Commons, but a man whose national-

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istic and anti-imperialistic sentiments have made his name anathema to English-speaking Canada.

> What has been the result to Canada as a whole, morally, socially or politically, of every encroachment made by any government, Conservative or Liberal, upon the principle of minority rights? What has been gained to Canada by any abandonment of the sound national policy with regard to participation in imperial affairs? What has been gained, I ask? More prejudice today as between French and English than there was fifty years ago; more cleavage as between Catholic and Protestant than there was fifty years ago—less violent, I admit, but perhaps more subtle. That is in regard to interracial matters in Canada. With regard to outside affairs there is today less unity in matters of national import. Why? Because we have appealed alternately to the British to think of Britain first and of Canada second; and to French-Canadians to enlist and fight for France instead of remaining here and working for Canada. Therefore we have revived the old colonial racial spirit in every group in Canada.

The constitutional status of Quebec is written into the British North America Act itself in a series of guarantees. The opinions and policies of that province have therefore a vitally important constitutional significance in connection with recent changes in the position of the Dominion in the Empire.

But compared with the Maritime Provinces in recent years, Quebec has been quiet and contented. New Brunswick, Nova Scotia, and Prince Edward Island accepted confederation reluctantly, and since 1867 have been on the whole relatively less prosperous and naturally less influential than in preceding decades. Debarred from their natural markets in the eastern states by the tariff, and from those of central Canada by heavy transportation charges, supporting an expensive governmental organization, lacking the great territorial resources and the extension of boundaries which fell to the lot of Quebec, Ontario and the western provinces, and suffering in addition from all the ordinary post-war evils, these provinces since 1921 have been in a condition of sullen unrest. There has even been discussion of the formation of a Maritime Union and withdrawal from the Dominion. A commission of inquiry in 1926 investi-

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gated the situation and recommended a series of remedial measures, including an enlarged grant from the Dominion Treasury for the support of the Maritime Provincial governments, lower freight rates to the upper provinces in the hope of enlarging markets for Maritime goods (one of the inducements originally offered in 1867), a comprehensive port-development program for St. John and Halifax, and subventions in aid of Maritime coal production. Most of these recommendations were enacted into law shortly before the close of the last session of Parliament in April, 1927.

If there has been business depression in the Dominion, if the exodus to the United States has caused serious alarm, if sane and ordinarily conservative persons have expressed grave concern at future prospects, and if there are serious questionings as to some features of the present system of government, the causes are more likely to be found in fundamental economic conditions, inseparable as they are, of course, from political, than in the sphere of constitutional law. Since confederation, population has grown from 3,689,257 at the first census in 1871 to 8,788,483 at the last, 1921. The 2,278 miles of railroad in 1867 had grown to 40,061 in 1924, and construction is still in progress. Work is about to be renewed on the much debated line to Hudson's Bay.

Traffic density is, however, still very low for most of the newer railroads. This is in itself a gigantic problem. Of the total mileage, over 22,000 miles are publicly owned. Deficits have been running large although the situation has shown some improvement in the last two years. On the other hand the privately owned Canadian Pacific has been one of the most profitable and efficient transportation systems in the world. That railroads have been "over built" is undoubtedly true, but in view of the history of our own west it would seem unwise to prophesy that such construction will be a permanent liability. That there will be a tremendous burden on the taxpayers for many years is unquestionable, and the Canadian national system's debt of $2,056,181,518, of which $1,142,268,404 was due the Government in 1925, is an added embarrassment to a country already loaded with liabilities public and private. Due

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to war outlays and various extraordinary expenditures the net debt of the Dominion rose in a decade from $335,996,850 in 1914 to $2,417,437,686, bearing an average interest rate of almost 5 per cent. The per-capita debt under confederation has grown from $22.73 in 1867 to $258.16 in 1925.

Dominion taxes in 1924 amounted to $341,718,807, provincial to $61,077,354, municipal (1922) to $108,500,292. The total constitutes an extraordinary burden for a country of slightly more than nine million people. Admitting that the potential wealth of the Dominion is enormous, such public burdens are likely to prove a serious handicap to all forms of business, and are undoubtedly responsible for many recent difficulties.

The problems of curbing public extravagance, and building up population and taxable resources are likely to prove difficult. So far not much has been accomplished in the direction of economy, and there is undoubtedly much truth in the statement of a western member in the Parliamentary debate of April 13, 1927, on the acquisition of a legation property in Washington, D. C., that the Canadians constituted a small nation of nine million people, "whose pretensions are thoroughly out of keeping with their position in the world."

Inseparable from the problems of public finance and business depression is the perennial tariff issue, and back of that the fundamental obstacle to economic unity in the existence of distinct regions with peculiar interests often at variance with the general welfare,—the Maritimes, the eastern plains, separated by the Laurentian plateau from the western plains, and British Columbia. "The idea that Canada can be a self-contained and self-sufficient country is nullified at the beginning," declared Mr. Bourassa in the House of Commons on February 24, of the last year,

> by the very conditions of the country itself—conditions which no government, no party, no policy, can change or ever will change. . . . I once defined Canada, as it had been carved by diplomats, by politicians on both sides of the ocean, without any regard to the future, without any regard to the national exigencies of the country, as a "geographical absurdity." It means that portions

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> of our country will always have to export an immense quantity of farm products for which they have the right to demand the easiest markets, in the easiest and cheapest means; and we as Canadians have the duty to help them in getting them as much as we can.

But in the way of such a policy lie vested interests of manufacturers, representing at the present time a capital of close to three and a half billion dollars, and about 80 per cent concentrated in Ontario and Quebec. More and more the western and Maritime Provinces have resented what they regard as exploitation by the protected industries; while they themselves are obliged to sell their products in world markets, often under unfavorable conditions, their purchases increase the profits of artificially stimulated industries. He would be a bold forecaster who would care to predict the outcome of such conditions. It is obvious that no comparison can be made between a country with geographic conditions like those of the United States with its population of 110,000,000 and Canada with its peculiar economic sectionalism and only 9,000,000 people.

With so many possibilities of hardship and injustice in the post-war situation it would be surprising if some part of the government organization were not selected as a scapegoat. The 1924 campaign against the United States Supreme Court will be recalled. Just at present, the Senate is Canada's particular *bête noir*. Consisting of 96 members appointed for life and equally divided among the Maritime group, Quebec, Ontario and the west, it has served the main purpose for which it was created, the protection of the Provinces and the safeguarding of minorities. It has, however, been regarded by great numbers of people as "a house of refuge for political friends of the government or a sort of stock exchange for business men who pay large subscriptions to parties." In general, even when differing politically from the government in power, as in the period following the Liberal defeat in 1911 or that of the Conservatives in 1922, it has shown no great inclination to thwart the judgment of the country. The words of one of its own members are, on the whole, a reasonable summary of its merits. "It has improved defective bills. It has delayed

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doubtful measures. It has exercised fairly its improving and delaying powers. . . . None of its detractors could point to any case where it has deliberately opposed policies whose object was to promote the best interests of the country." Its membership always shows a high percentage of men with previous experience in executive or legislative office.

Between 1867 and 1925 the Upper House rejected 156 bills coming up from the Commons, most of them non-controversial in character and in other cases of such doubtful merit that few governments would care to submit them to the country by the test of a general election. One prominent publicist recently declared that "the good old Senators" were the only check on the mania for extravagance, superfluous governmental activity and over-building, which possessed the House of Commons. The rejection of an Old Age Pensions Bill in 1924 caused renewed criticism and Liberal campaign threats that the Senate would either be abolished or reformed, but in 1926 Mr. Meighan, the leader of the Opposition, pointed out that the government had evidently concluded "that the proper way to reform it is to allow nature to take her course," the deceased members being replaced by those friendly to the majority, as had always been the case in the past. The advanced age of most Senate appointees always accelerates this process. The demand for reform has not yet subsided and appeared repeatedly during the last session. It was charged that the Upper House had become the stronghold of "the Big Interests," that 50 Senators were directors in 334 commercial and financial enterprises, and thus in a position "to control and direct the economic life of Canada," and that "it is intolerable that an irresponsible body should be able to nullify the action of the elected representatives of the people." When it comes to concrete proposals for alteration, however, Canada has had about the same difficulty as Great Britain in the case of the House of Lords. Would it be a better body if elected? What would be the mode of election? Could an Upper House be safely abandoned? No decisive answers are forthcoming.

But Senate reform gives rise to a still broader question, and that in turn to the problem of Canada's status in the Empire, in

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which latter issue, perhaps, the changes of the last sixty years are best exemplified. Could Canada remodel the Senate if she wished, and what would be the procedure? Its creation under the terms of the British North America Act was an express recognition of the need of protecting Provincial interests and the rights of minorities. In an address on February 12, 1925, Senator Beaubien pointed out that the only method by which a change could be brought about was, (*a*) through the consent of the original parties to Confederation, (*b*) the approval of their amendments by both Houses of Parliament, (*c*) ratification by the Imperial Parliament. Would this difficult procedure be necessary today? Since 1925 important developments have occurred, and formed the basis of what was by all odds the greatest debate of the last session, a constitutional discussion of the highest significance both at home and abroad.

On March 29 last, Premier Mackenzie King by arrangement of the different parties in the House reported on the proceedings of the Imperial Conference held in London, October 19 to November 26, 1926. Although covering a wide range of political and economic topics, most questions considered by that body were overshadowed in importance by that of the status of the self-governing Dominions. In the words of the Premier,

> the transition from a relationship, within the empire, of imperial control and colonial subordination to one of equality of status, with free co-operation between the different parts, is the greatest political transition that possibly the world has witnessed, the most momentous, and the most unprecedented development of modern times. . . . It is part of the evolution of the last half century, an evolution that has been tremendously accentuated since the war.

The Conference had found it necessary, he further explained, to examine existing legal, judicial or administrative forms which seemed to be in conflict with that new relationship, and to see what should be done in regard to them.

A committee headed by Lord Balfour, he reported, had formulated a definition of the self-governing Dominions. "They are autonomous communities within the British Empire, equal

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in status, in no way subordinate one to another in any aspect of their domestic or external affairs, though united by a common allegiance to the crown, and freely associated as members of the British Commonwealth of Nations." Among other formal changes were:

(*a*) The title of the King had been changed from "of the United Kingdom of Great Britain and Ireland, etc., King," to "of Great Britain, Ireland, the British Dominions beyond the seas, King, etc." "It being understood," added the Premier, "that the title was of geographical and not of political significance." This change, of course, is chiefly important as a recognition of the new status of Ireland.

(*b*) The position of the Governor General was definitely settled, a necessary step inasmuch as when such appointments were first made a condition of colonial subordination existed. "It is now perfectly clear that the Governor General is advised by the ministry of the Dominion to which he comes, and is no longer free to accept advice from His Majesty's Government or from any department of that government with reference to the affairs of the Dominion, of which he is Governor General." While this had been the actual practice in Canada for many years, the action of the Conference would render impossible at any future time any dispute as to constitutionality in this particular field of Imperial relations.

(*c*) The system of communication between the Dominion and British governments was settled. Formerly all communications passed through the hands of the Governor General, but during the World War the Premiers introduced the system of direct communication. Hereafter the governments will communicate directly, thus eliminating any possibility of drawing the Governor General into a controversy.

(*d*) The power of disallowing Dominion legislation had not, said the Premier, been exercised for Canada in fifty years and was constitutionally dead. Apart from provisions embodied in constitutions or in specific statutes providing reservations it is the right of each Dominion "to advise the crown in all matters relating to its own affairs." In the matter of appeal to the Judicial Committee of the Privy Council, hitherto the court of

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last resort for the colonies, it had been decided, "that it was for the Dominion itself, possessing self-government to the fullest extent, to say whether or not it wished that right of appeal limited, cancelled or continued."

e. The matter of signing and ratifying treaties was left by the Premier to Mr. Ernest Lapointe, Minister of Justice, who had served on the Conference committee dealing with that subject. "Hereafter treaties will be made and signed, not by and for the British Empire, but by and for Great Britain and such other portions of the Empire as may be concerned in those treaties." No "exclusion clause," exempting certain parts of the Empire from the operation of treaties will appear in future. Plenipotentiaries will be appointed by His Majesty on the recommendation of the Dominion Government; ratification will be carried out on the same recommendation. "We in Canada have the right to initiate any treaty which concerns ourselves." Other Dominions, however, are to be informed when their interests are involved. Various formalities, symbolic of the unity of the Empire, have been discarded, "the one great symbol of unity being His Majesty the King." In the matter of war, "Canada will always be free to take whatever steps she thinks fit."

Naturally, abstract principles of constitutional law are subject to various interpretations and the debate which followed the Premier's statement brought out the fact that there were three distinct viewpoints as to the work of the Imperial Conference: that it marked the end of the British Empire as known hitherto; that it was merely a formulation of recognized constitutional practices; that it was a declaration of an ideal not yet realized. In any case it should be remembered that the Conference was solely a *conference* without legislative authority, and that no court of law would take the slightest notice of any of its pronouncements. There is no likelihood, furthermore, that Great Britain will force any Dominion to accept liberties which it may not care to exercise.

The latter is an important point in the case of Canada. Did the recommendations of the Conference, if accepted, confer an unrestricted power of constitutional amendment? Why, asked Mr. Hugh Guthrie, leading Opposition member, had no power to change the constitution been given Canada in the first place?

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> Two great races had to be brought together and harmonized to make a united Canada. It was the spirit of compromise which brought about Confederation. The fathers of Confederation saw to it that there should be no power in the constitutional act of this country which might enable those coming generations or centuries later to alter the basic terms of the Confederation agreement. That is why this Parliament was not given power to amend the Act of Confederation.

The suggestion of abandoning appeals to the Privy Council he described as "one of the most serious proposals brought before this Parliament in a generation" and one which should at least be submitted to "the parties most interested—the Provinces."

Quotations from French Canadian newspapers and from the utterances of leaders of that group were read into the record showing that there were misgivings as to the possibilities involved in complete autonomy. "We entered into Confederation on certain conditions" said Premier Taschereau of Quebec in a recent article, "for safeguarding all that is dear to us, such as language, schools, laws, belief, and provincial autonomy. One of the clauses of the federal pact is that the Canadian constitution cannot be changed in its essential parts without the assent of the British Government. I believe that this is more necessary today than it was in 1867." "Why not stamp with our disapproval that portion of this report which opens the door to constitutional change?" asked Mr. Guthrie. From the trend of this debate it would seem reasonably safe to predict that no party nor majority is likely to undertake serious amendment of the organic law without first securing the approval of the provinces.

The matter of appeal to the Privy Council involves some highly technical questions. It has been the subject of considerable discussion for the last year or more since that body, in an Alberta bootlegging case, decided that a Canadian law of 1888 denying the right of appeal in criminal cases was *ultra vires*.

The possible abolition of the system of appeals to the Privy Council would, in the opinion of many, destroy the greatest constitutional safeguard of minorities. Mr. Lapointe announced that he personally would be opposed to taking advantage of the privilege of abolition. Australia might, it is true, feel safe in

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abolishing appeals in constitutional cases, but the problems of that Dominion are radically different from those of Canada. In an earlier debate in a different connection, Mr. C. H. Cahan, a member from Quebec, had declared,

> we must give to our own Supreme Court a higher standing, and create greater confidence in its decisions on the part of the people of this country before we can abrogate the right of appeal to the Privy Council. . . . Until you have, on the part of the people of all the Provinces, implicit confidence in the ability, in the intelligence, and in the impartiality of our own Supreme Court, you would introduce an element of discord, of suspicion and misapprehension into the minds of the people of this country, if you were to abolish at the present time the right of appeal to the Privy Council in constitutional cases.

It will be interesting to observe what action, if any, will be taken in this matter during the next few years. Although Mr. Bourassa expressed the feeling that the Judicial Committee of the Privy Council was sometimes moved by political considerations in highly controversial matters and that in any event its decisions under present conditions were without sanction, the debate brought out clearly the deep respect generally entertained for the judicial institutions of the mother country.

Such are some of the great juridical problems before the Dominion. Another aspect of the question is perhaps reflected by the somewhat discordant note interjected by a western member in the course of debate that "as far as the province of Saskatchewan is concerned, we shall be just as willing to be governed from Downing Street as from St. James Street, Montreal, or King Street, Toronto," both thoroughfares about as popular in the prairie provinces as Wall Street is in North Dakota. But with all the economic burdens, and the great problems, which are bound to press for solution in the coming years, the sixtieth anniversary of confederation was a notable event in the history of America. In the words of Mr. Lapointe on March 30 last, "the work of building a nation in Canada has been achieved, and no more evidence of that fact is needed than the debate which is now proceeding."

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Colonial Office Conference, 1927. Summary of Proceedings. Cmd. 2883. London, His Majesty's Stationery Office, 1927.—73 pp. 1*s.* 3*d.*

Colonial Office Conference, 1927. Appendices to the Summary of Proceedings. Cmd. 2884. London, His Majesty's Stationery Office, 1927.—263 pp. 4*s.* 6*d.*

The British Empire consists of three aggregations of peoples and territories. The first and politically the most advanced is the scattered group of self-governing communities composed of Great Britain and the British Dominions. Their present relations with one another were defined by the Imperial Conference of 1926, which declared them to be "autonomous Communities within the British Empire, equal in status, in no way subordinate one to another in any aspect of their domestic or external affairs, though united by a common allegiance to the Crown, and freely associated as members of the British Commonwealth of Nations." The second aggregation is the Indian Empire, with a population of some 320,000,000 occupying a subcontinent. It embraces British India, which is under the direct administration of the Government of India, and about 700 dependent native states. British India has not yet reached Dominion status and is still a dependency, subject to the legislative authority of the British Parliament; but it is the declared policy of Parliament, as stated in the Government of India Act, 1919, the basis of the present Indian constitution, "to provide for the increasing association of Indians in every branch of Indian administration, and for the gradual development of self-governing institutions, with a view to the progressive realization of responsible government in British India as an integral part of the empire." There remains a far-flung collection of dependencies, the Colonial Empire proper, consisting of crown colonies, protectorates and mandated territories, most of which are under the administration of the British Colonial Office, though a few of them are administered by Dominion governments.

The Colonial Empire comprises an area of more than 2,000,000 square miles and a population of more than 50,000,000. The con-

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stituent parts exhibit wide diversity in their history, political organization, cultural development and economic resources. Some of them are inhabited by primitive peoples just emerging from barbarism, others by communities with established civilizations. Some are governed autocratically, others enjoy a large measure of autonomy. The Colonial Office has to deal with some thirty-six different governments, each distinct from all the others, with its own separate administration and governmental services. In the words of Mr. L. S. Amery, the present Secretary of State for the Colonies: "Each Colonial Government and each Colonial Service has grown up on the spot by a continuous process of local evolution from the days of our first historical connection with the Colony, the days of the first treaty cession, the first conquest, the original peaceful trading penetration, as the case may be." Viewed as a whole the Colonial Empire is not very old. By far the greater part of it, both in population and area, has come under British rule during the last hundred years, and substantial additions to it were made, in the form of mandated territories, in consequence of the World War. The trade of the colonies, using this word to designate the component parts of the Colonial Empire, has increased rapidly during recent years, and their economic importance has become increasingly apparent. In 1905 their exports to the United Kingdom amounted to £19,500,000, and in 1925 to £81,000,000. For the same years their imports from the United Kingdom were valued at £18,000,000 and £60,000,000. The vast resources of the Colonial Empire, moreover, have only begun to be exploited. To say nothing of its mines and forests, almost all of its soil is fertile and capable of greatly enlarged productivity with the application of scientific methods of agriculture. Considered as a whole, it is sparsely populated, owing largely to the prevalence of preventable diseases. With a more efficient administration of medical and public health services in the colonies and higher standards of sanitation among their inhabitants, a large increase of population may be expected, and a rapid expansion of markets for the products of British and other industry.

In spite of many and marked diversities in the Colonial Empire it has become apparent that there is a large measure of unity in its problems. Its scattered parts lie mainly in the tropics and depend for their progress primarily upon scientific tropical agriculture and hygiene. Problems in these fields are not peculiar to individual colonies, but are common to many. The frog-hopper blight in sugar cane does not remain within the boundaries of Jamaica, nor does the

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tsetse fly confine its ravages to Gambia. The Imperial College of Tropical Agriculture in Trinidad, which was opened in 1922, now serves as a training school for the agricultural services of the Colonial Empire and a research station for the study of problems of tropical agriculture that are of direct concern to many colonies. The London and Liverpool Schools of Tropical Medicine were founded in 1899 with the object of giving instruction in tropical medicine to officers of the colonial medical services. Questions of educational policy and administration, likewise, cannot be dealt with to best advantage by viewing the colonies as so many water-tight compartments. The fact that they are inhabited, in the main, by non-European and largely by primitive peoples, gives rise in many of them to similar problems of native education. The distinctive character of the Colonial Empire was emphasized when in 1925 a new British department of state, the Dominions Office, was set up, with a staff of its own, separate from that of the Colonial Office. The difference in constitutional status between the Dominions and the dependent colonies has long been recognized in practice, but until the establishment of the new department, the Colonial Office continued to maintain contact with the former. Since then it has confined itself wholly to the administration of the Colonial Empire. In a very interesting account of recent developments and tendencies in the colonies which Mr. Amery gave at the Imperial Conference of 1926 he said: "The Colonial Empire has, in fact, during the last generation, evolved as a separate constituent element in the Empire, different on the one side from the Dominions, in which I include for the purpose Great Britain as well—I mean those self-governing parts of the Empire inhabited by people of white race and based on democratic institutions—different also in very many respects from that wonderful complex of races, religions, creeds, and old civilizations which make up the Empire of India."

Since the war there has been a growing sense of community of interest among technical officers and administrators in neighboring colonies, and several regional conferences have been held. In West Africa, for example, there was a Medical Officers' Conference in 1925, a Railway Conference in 1926 and an Agricultural Research Conference in 1927. In 1926 an East African Governors' Conference, the first of its kind, was held at Nairobi. The Colonial Secretary has referred to it as marking the beginning of a regular conference system for the British East African dependencies. In the British West Indies during the last twenty years there have been agricultural,

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customs, educational, medical and quarantine conferences, and in the early summer of 1926 a preliminary conference of West Indian representatives met in London and drafted a constitution for a Standing West Indian Conference, to meet at regular intervals, in London and in the West Indies alternately, as an advisory body, performing for the British West Indies, including the Caribbean colonies on the mainland, functions analogous to those which the Imperial Conference performs for the British Commonwealth. Such a body, it was hoped, would provide the colonies in question with "a flexible, well understood and eminently British piece of political machinery for adjusting their own internal and inter-colonial relations, consulting on their similar domestic problems, and exerting within the councils of the Empire a weight and influence commensurate with their collective populations, wealth and resources, which as isolated units they do not and cannot hope to command." The recommendations of the preliminary conference were laid before the legislatures and governors of the colonies concerned, with the understanding that the new body would be established if they gave their approval.

On a larger scale than these regional conferences, and expressive of the new conception of the Colonial Empire as an entity with common interests and problems of its own, was one that met in London last spring. The proceedings of this Colonial Office Conference, as it was called, were opened on May 10 and concluded on May 31, 1927. Its plenary meetings, twenty-five in number, were attended by representatives of the Colonial Office and governors or other representatives of Barbados, Bermuda, British Guiana, British Honduras, Ceylon, Cyprus, Falkland Islands, Fiji, Gold Coast, Hong Kong, Jamaica, Kenya, Leeward Islands, Malay States, Nigeria, Northern Rhodesia, Nyasaland, Palestine, Seychelles, Sierra Leone, Straits Settlements, Tanganyika Territory, Trinidad, Uganda, Windward Islands and Zanzibar. The Colonial Office supplied a secretariat for the Conference, an agenda paper was prepared in advance, and discussion was based on memoranda, which embodied many propositions and suggestions that had been made by the colonial governments. A summary of the proceedings of the Conference and appendices thereto, containing the more important memoranda and reports of committees of the Conference, were presented to Parliament and published last June.

As Secretary of State for the Colonies Mr. Amery presided over the Conference. In his opening speech he dwelt upon the lack of contact and cooperation between public officers in the colonies, each

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having its own administrative, medical, agricultural and other services, its own scale of pay and its own system of pensions. There was, in consequence, little opportunity for interchange of ideas and experience between those engaged in the same kind of work in different parts of the Empire, however similar their problems might be, and many of the memoranda sent in by the colonial governments called attention to the injurious results of this state of affairs, especially in the case of scientific and technical officers. "There is," said Mr. Amery, "a real consciousness of the fact that we have immense undeveloped resources which science, and science alone, can bring to rapid development. Now it is just here where our system of watertight compartments fails most strikingly. It is of the very essence of scientific research that you must offer to the scientific worker free movement, determined according to the needs of study or research and not limited by any local hierarchical system or by the administrative limitations of what may perhaps be a very small Colony with limited problems. You must give the scientist a career . . . our present system does not offer such a career. . . . Scientific research work is essentially of the nature of team work, and the team for this purpose is not always most effective when concentrated in one spot. A problem of research has different aspects not necessarily best dealt with in one place. . . . Nor is the interest in the results confined to any one Colony." He intimated that the creation of some kind of unified service for scientific and technical work in the Colonial Empire was the question of outstanding importance before the Conference.

A committee was appointed to frame and submit a plan "for the creation of a Colonial Scientific and Research Service available for the requirements of the whole Colonial Empire, for the support of institutions required for that purpose, and for the increase of research and study facilities in connexion with the specialist services of the Colonies generally." In its report, a document of great value for an understanding of the problems of the Colonial Empire, the committee laid stress upon the transcendent importance of research in agriculture, medicine and forestry. It decided, however, for reasons set forth, to make no recommendations respecting research in medicine and forestry, but with regard to agriculture, upon which "the wealth of the Colonies, all schemes for the amelioration of the lot of their inhabitants, must mainly depend", it advocated the establishment of a central Agricultural Research Council, advisory to the Colonial Office, and a unified Colonial Agricultural Research Ser-

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vice, the cost of the proposed organization to be borne in part by the colonial governments. The Conference approved of the general principles of the report and asked the Colonial Office to appoint a committee to work out a detailed scheme for submission to all the governments concerned.

An interesting discussion took place on the subject of education, based partly on a memorandum which reviewed the work accomplished since the creation of a Committee on Native Education in the British Tropical African Dependencies, which had been established in 1923 to advise the Colonial Office. It was agreed that this committee had served a useful purpose, and that it would be advantageous to extend its activities to the whole Colonial Empire. It was recommended, accordingly, that it should be reconstituted as a Colonial Advisory Education Council, to function in two committees, the one dealing with education in Tropical Africa, the other with education in the rest of the colonies. The Conference agreed that it would be desirable to issue regularly a bulletin devoted to educational experience in the Colonial Empire for distribution to education officers, missionary societies and others interested in problems of native education. Attention was called to the fact that in the colonies generally a career in the colonial civil service was regarded as the goal to be aimed at by native pupils in government and missionary schools, with the result that there was an over-supply of candidates for positions, and "a large semi-educated class was created, disappointed by the failure of their ambitions and unfitted, through their purely clerical training to succeed in industrial or agricultural work." The Conference recognized that this was an undesirable situation and suggested that the colonial governments should take steps to remedy it. A number of problems involved in the transfer of teachers from the schools in Great Britian to service in the Colonies were discussed, and it was recommended "that all the Colonial Governments concerned should cooperate in every way to assist the interchange of Educational Staff between the Colonial and Home Services."

The subject of more adequate and efficient interchange of information between different parts of the Colonial Empire received consideration. It appeared that the distribution of colonial annual reports, blue books, bulletins of technical departments etc. was carried out without much system. The importance of establishing and maintaining a high standard in the annual reports of colonial governments was recognized, in the interest of inter-colonial informa-

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tion as well as of better administration. Recommendations were made looking to a more effective circulation of colonial official publications, and it was suggested that a handbook of administration, summarizing administrative methods in use in various colonies, would make experience gained in one part of the Empire more easily available for other parts.

The Conference discussed many subjects besides those that have been referred to, including the recruitment and training of colonial civil servants, the relation of administration to technical services in the colonies, the procedure and conduct of business in colonial legislatures, the participation of colonies in imperial and international exhibitions, air development, wireless communication and broadcasting, forestry, and medical and public health questions. It is impossible here to give even a summary of its work as a whole, and it is too soon to attempt an estimate of its significance in the history of the Colonial Empire. At the concluding session Mr. Amery reviewed what had been achieved and observed that the discussions had begotten a new sense of partnership. It seems to have been the prevailing opinion that a new institution had come into existence with a great future before it. In the words of the published report of the Conference: "There was general agreement that it had served its purpose admirably, and that, although it had been arranged at comparatively short notice and was admittedly in the nature of an experiment, the experiment had fully justified itself. It was hoped that the present Conference would be only the first of a series of similar Conferences, which could most conveniently be held at intervals of not more than three years. Such Conferences, it was felt, would play an important part in diffusing the conception of the Colonial Empire as a separate entity in itself within the larger entity of the British Empire."

ROBERT LIVINGSTON SCHUYLER

Paul Vinogradoff: A Memoir. By the Right Hon. H. A. L. FISHER. Oxford, Clarendon Press, 1927.—74 pp.

This brilliant though perhaps too short account by Mr. Fisher of the life and work of Sir Paul Vinogradoff—"an arresting figure in the intellectual history of our age"—is a timely and worthy tribute to the memory of the great Anglo-Russian scholar which will be welcomed by his many friends on both sides of the Atlantic. The biographer of Maitland and James Bryce is particularly well equipped

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for the task, and he has accomplished it with skill and human understanding which call for unreserved admiration and gratitude. In dealing with the manifold activities of Professor Vinogradoff, Mr. Fisher was confronted with certain difficulties which, perhaps, were new to him and the extent of which he fully realized. "In attempting this sketch of my Russian friend," writes Mr. Fisher, "I am conscious that through ignorance of Russia and of the Russian language, and partly from my most imperfect acquaintance with those branches of historical inquiry to which he dedicated his great powers, I have failed to do justice to the whole man. We who knew him in England and England only, where he was compelled to speak and write in a difficult and reluctant medium, can only have an imperfect measure of the full span of his intellectual gifts. But on the other hand, how many of his Russian compatriots are in a position to appraise the value of his contribution to the advancement of legal and historical studies in England?" Mr. Fisher has avoided to a remarkable degree the many pitfalls presented to an English writer by the Russian activities of Professor Vinogradoff. Undoubtedly the good services of Lady Vinogradoff and the advice of Baron Alexander F. Meyendorff were of the greatest value to him in this part of his work.

The *Memoir* gives the reader a vivid picture of the Russian background which left a strong imprint on the character of the future "pontiff of comparative jurisprudence." He is shown first as "a pale, thin, nervous boy, rarely ill, but very emotional, and gifted with a prodigious memory, so that everything which he saw or heard seemed to make a lasting impression upon him." Those who knew Vinogradoff only at the later stage of his life will be interested to learn of the effects produced upon him by his first theatre ballet: "Nothing would content him but to attempt to repeat the steps of the dance."

Mr. Fisher follows step by step Vinogradoff's career and his intellectual development. The time spent in 1875-1876 in Berlin, where Vinogradoff worked under Mommsen and Brunner, is an important landmark in his preparation for future work in legal history and jurisprudence. In 1881 he was elected assistant professor and in 1884 full professor of history in the University of Moscow. In 1883 Vinogradoff paid his first visit to England, and Mr. Fisher is fully justified in saying that "it was a visit of extraordinary significance." His discovery of Bracton's Note-Book proved an event of exceptional importance in the history of English learning, not only

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on account of the value of the document itself, but also because it became the turning point in the life of another English historian, Professor Maitland. In another place Mr. Fisher describes the meeting between Vinogradoff and Maitland at one of Leslie Stephen's Sunday tramps and how it resulted in Maitland's taking up research work which marked "an epoch in the history of history" (*Frederick William Maitland*: A Biographical Sketch, Cambridge, 1910, p. 24).

The outcome of Vinogradoff's work in British archives was his *Villeinage in England* (1891), "certainly the most brilliant and perhaps the best" of his books. His extraordinary command of the sources could not fail to impress even those who were not prepared to accept his conclusions. "He has arrived at a knowledge of legal opinion and procedure", wrote Sir William Ashley, "which would be more than worshipful in an Englishman, and is nothing less than terrifying in a foreigner" (*The History of English Serfdom,* in *The Economic Review*, London, 1893, vol. III, p. 157).

In spite of his travels and of the absorbing interest of his scientific work, Vinogradoff found time to take an active part in the life of the University of Moscow and to devote a great deal of attention to the advancement of elementary and secondary education. He himself told the reviewer that he considered this part of his work one of his most valuable achievements.

The account given by Mr. Fisher of the events which led to Professor Vinogradoff's resignation from the University of Moscow in 1901 many perhaps give rise to some misunderstanding. It is hardly possible to convey to a non-Russian and especially to an Anglo-American reader a clear idea of what actually took place. Russian universities of the pre-revolutionary period were living under conditions entirely different from those which prevail in western Europe and in the United States. One of the outstanding features of Russian university life was the ruthless suppression by the Government of all student organizations. In spite of, or rather because of these measures, the universities were constantly scenes of violent political outbursts and disturbances which made the normal course of academic life all but impossible. Professor Vinogradoff told the reviewer that, in his opinion, in Russian universities the bulk of the undergraduates were not much more inclined towards revolutionary ideas than they were in other countries. The small minority, however, did form secret organizations and were ready for action; while the vast majority of moderately-minded students were prevented by the existing regulations from giving legitimate expression

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to their views. That is why the small but organized band of revolutionaries invariably had the upper hand. The situation created by student disorders in the University at the end of the nineteenth century was extremely tense and became almost intolerable in 1901. A committee of professors of the University of Moscow under the chairmanship of Vinogradoff was at last appointed in order to find a way out of the deadlock. It presented a report which embodied the idea of Professor Vinogradoff: a freedom, however limited, of student organization as the best method for restoring conditions indispensable for the carrying on of academic work. General Vanovsky, Minister of Education, did not find it feasible to accept those suggestions. "At that signal rebuff," writes Mr. Fisher, "Vinogradoff made up his mind to cut his connexion with the University of Moscow." This statement may leave the reader with the impression that Vinogradoff's resignation was primarily a matter of *amour propre*, which does not seem to be the case. From conversations with Professor Vinogradoff the reviewer understands that it was his deep conviction that normal work in universities under conditions then prevailing was out of the question. The position of professors between a demagogic revolutionary minority of the students who tried to convert the classrooms into platforms for political propaganda, on the one hand, and a suspicious and arrogant bureaucracy, on the other, was as humiliating as it was painful. Vinogradoff felt that one could not work in this atmosphere. His resignation was not a matter of *amour propre* but of principle. He could not waste his energy in petty quarrels when more important work was awaiting him. Those who know his record since 1901 can hardly blame him for this decision. One should remember that the severance of the ties which bound Vinogradoff to Moscow was anything but easy. He enjoyed his academic and public work in Moscow, to which he devoted twenty years of his life. He had the responsibility of a husband and a father, and he loved Moscow which at that time was still his only home. But he knew that his decision was the right one, and there was nothing that could change it. His departure for Cannes was the occasion of a tremendous demonstration which gave it almost the character of a national event.

When Vinogradoff resigned his chair in 1901 he had no definite plans. He was simply following the only course open to him. The possibility of occupying a chair in Oxford, as he himself told the reviewer, did not even occur to him at that time. But his studies in the field of English history and the numerous friendships he had

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formed among British scholars were at work for him. In 1903 he was elected Corpus Professor of Jurisprudence in Oxford to succeed Sir Frederick Pollock and Sir Henry Maine.

The scope of this review makes it impossible even briefly to touch on the many interesting and colorful episodes of a crowded life divided between Oxford and Russia, with frequent visits to various parts of Europe, India and the United States. As told by Mr. Fisher the story makes fascinating reading.

One is rather surprised to find that Mr. Fisher does not mention Vinogradoff's part in the planning and organizing of the Russian Series of the Economic and Social History of the War, published by the Carnegie Endowment for International Peace. The idea of establishing a Russian Series was Professor Vinogradoff's and met with the approval of the General Editor of the History, Professor James T. Shotwell. Vinogradoff became editor of the Russian Series in 1922 and was mainly responsible for its general plan and the selection of contributors. He held his editorship until his death and took great interest in this work which he considered as a last tribute to his native land.

Sir Paul Vinogradoff died on the night of December 19, 1925, in the *Clinique Medicale de Paris.* A few hours before he passed away, Professor Vinogradoff, who probably realized the seriousness of his condition, told the reviewer that if he could not recover completely from his illness he would prefer to die rather than to lead the life of an invalid. Such a life would indeed have been hardly compatible with what we know of his energy and character. His body was cremated at the Père Lachaise cemetery in Paris and his ashes were transferred to Oxford. The simple stone on his tomb bears the inscription he himself had selected: *Hospitae Brittaniae gratus advena.* It is no exaggeration to say that Professor Vinogradoff fully repaid his adopted country for the magnificent hospitality accorded to him.

MICHAEL T. FLORINSKY

COLUMBIA UNIVERSITY

Essai sur l'Évolution de la Pensée Économique. By G. H. BOUSQUET. Paris, Marcel Giard, 1927.—xv, 314 pp. 45 francs.

Bousquet's *Évolution de la Pensée Économique* is a remarkable and stimulating book. It is at once profound, and broadly based: learned, and concise. Especially for American students, who are too often imperfectly acquainted with the orientation and conclu-

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sions of other schools, it provides an invaluable synthesis and criticism; and it gives new vigor to those problems of method which it is now not uncommon to treat as outworn.

The book is in no sense a history of economic doctrines, although it rests on a very penetrating prior study of those doctrines. Rather, it is a history of the development and application in economics of *scientific method,* using this latter term in the sense now given it in the physical sciences. The character of the criteria involved is familiar and need not be elaborated. A given writer's method can be admitted to be "scientific" only when he seeks to condense his observations of objective facts into generalizations or "laws" that are "a rational and logical systematization of concrete reality, without any practical [i. e., teleological] or normative tendency." It is almost equally important, too, that he should seek to give an integrated picture of the whole. The various schools and writers examined are therefore judged not according to their "objective" contributions, their stated doctrines and theories, but according to their "subjective" contributions, the point of view and purpose with which each starts.

The application of these criteria leads Bousquet to the conclusion that to date there have been only two scientific schools of economic thought, both recent: the Austrian school and the mathematical school. The pre-classical systems were largely motivated by non-scientific purposes; although Bousquet commends Steuart for his comprehensive organic view of economic society, and Cantillon for his remarkable power of abstract reasoning. The classical system itself, in turn, was also essentially non-scientific, in that it almost always formulated its doctrines with a practical purpose in view, and in that it treated the various parts of the economic system as separate and substantially isolable—an assumption contrary to fact. Tribute is paid, however, to the more scientific tendencies of Senior, Cairnes, Cherbuliez, and the inadequately recognized but brilliant Italian, Ferrara. Of those writers and schools who were in some sense on the outskirts of the classical system the most noteworthy, Bousquet finds, was Marx, who, despite the gross errors of his positive doctrine, sought to employ the genuinely scientific method in a large part of his work. Paradoxically stated, "he had only one fault, that of being a socialist". Most of the other socialist writers of the nineteenth century are condemned outright, however, on the ground that they had not even the vaguest conception of scientific method; while the metaphysical basis of the German romantic school is

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mercilessly attacked. There remains, finally, the Austrian school and the mathematical school, both of which satisfy the requirements of the scientific method. They are the first and hitherto the only ones to do so.

But Bousquet, although himself a student and admirer of Pareto's, is frank in admitting that the most useful work of these schools has already, in large part, been accomplished; that their methods of attack can offer little more of a positive sort to the development of economics. The great contribution of the Austrian school was its working out, in a manner that was purely scientific,—neither normative nor teleological,—of the nature of value, in terms of utility and the individual psychology. The morass involved in the cost of production theories, and in quests after the "cause" of value, was thus left to one side. The contribution of the mathematical school was the working out, again in purely scientific terms, of the principle of equilibrium and the resulting interdependence of relationships; a new and powerful tool which effectively cut through the almost metaphysical confusion of the characteristic classical cause-and-effect relationships. It permitted, also, the formation of a unified, organic view—theory, one may say—of the whole field, in place of the classical separation into a series of inadequately connected compartments. When all this had been done, however, the objective contribution of each school was largely exhausted: they have had little more to offer along these lines, and there is every indication that they have about reached their limit of fruitfulness. The psychology of the Austrian school, deliberately based on unreal and simplistic assumptions from the start, is now recognized to be hopelessly inadequate in many directions. The mathematical approach, indispensable for presenting the situation at a given moment, is helpless before the problems of dynamics; its equations, already cumbrous, break down completely in trying to depict the "laws" of changes from one given moment to the next. Still more is it helpless in trying to pass from general (theoretical) relationships to any accurate description of concrete reality.

[illegible] pure economics therefore seems, to repeat, virtually to have reached its limit, and to have become a matter of history. This does not mean, however, that economics itself has reached any such limit; merely that its further future development must lie along new lines. What these lines will be Bousquet, though here optimistic, does not attempt to predict in any detail. But the great legacy of the mathematical school, the

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principle of equilibrium, will continue to be the keystone of the economic arch, even though that principle can no longer be expressed in mathematical terms (except at a given instant). And the scientific method, so recently and so hardly established, will of necessity dominate all further genuine contributions. But scientific economics is still in the very first stages of being a science at all, and it is necessary to proceed with caution: economics is still a century or more behind most of the physical sciences in its methodology. The principle of equilibrium has shown that it is impossible to separate any one economic phenomenon from those which surround it, that it is necessary to treat the economic system *en bloc*. But the next steps have still to be taken. The developers of the principle have as yet failed to apply it to concrete reality, and to verify it by that reality. Moreover, there is a possible fundamental difference between the results that may be thus obtained and the results already obtained in the physical sciences. A physical law or generalization, properly stated, is regarded as valid for the whole experiential universe of physics. But is there simply *an* economic universe; or are there a great many, each with its own characteristic laws? Do the given conditions change from country to country, from century to century? These matters still remain to be ascertained. If the hypothesis of difference is correct—as within limits it probably is—economic law will be a very different thing from physical law; far more limited in its range of application, and expressing truths far more obviously relative and ephemeral.

Finally, for the philosophers of science, there is the fascinating discussion in the closing pages of the essential subjectivity of science itself; a discussion arising among other things from the consideration that scientific method, in striving to be non-teleological, thereby implicitly commits itself to at least one form of teleology. The only escape from the circle lies in the test of an appeal to man's feeling for rationality; which throws us back, in the last analysis, on purely subjective criteria.

Such are the major problems with which this book, itself both critical history and new construction, is concerned. No explicit criticisms of it have been offered, for they would deal largely with matters of individual opinion and judgment. Most English and American students, for example, will protest against the unimportant rôle and the slight recognition given to various English economists in the classical line of descent, notably Marshall. But these, to repeat, are matters of individual purpose and judgment. It is

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enough to say that there are few economists so learned and so acute that they have nothing to gain from the book. For the great majority, it will be a long-continued stimulus and challenge.

JAMES W. ANGELL

The Renaissance of the Twelfth Century. By CHARLES HOMER HASKINS. Cambridge, Harvard University Press, 1927. —x, 437 pp. $5.00.

Of recent years historical students have grown more and more inclined to question seriously or even to abandon almost entirely the old conception of a Renaissance of the human spirit or revival of learning marking the boundary between medieval and modern times. This so-called Renaissance, which was supposed to reach its height in Italy at about the close of the fifteenth century, is now seen to reduce to not much more than the humanist movement and to certain changes of taste and style in the fine arts. The discovery of America and the Protestant Reformation only partially coincide in time with this so-called Italian Renaissance and have no organic connection with it.

On the other hand, for some time scholars have been making increasing use of the expression " the twelfth century Renaissance " for a movement in the heart of what was once called the dark ages but which we must now recognize as a rich period of medieval culture. The need has also for some time been felt for a book which would present the claims of this twelfth-century Renaissance, and this need is now met by Professor Haskins' volume. As the headings of its twelve chapters indicate, there was at this time a revival of jurisprudence, of science, of philosophy, and of higher education in the modern form of universities. Not only this; there was activity in those fields which have been regarded as especially revived by the Italian humanists of the fourteenth and fifteenth centuries, namely, a revival of the Latin classics, together with the collection of manuscripts and libraries, literary activity in the Latin language, poetry and historical writing.

[illegible] the same period, *Studies and Histories of Mediaeval Science,* which is a collection of rather highly specialized scholarly investigations, the present volume is one which the general reader may both profit by and enjoy. At the same time each chapter has at the close a bibliographical note, introducing those who wish to study the topic in more detail to the best scholarly treatments of the subject.

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Professor Haskins does not enter the fertile domain of the great artistic activity of the twelfth century, deeming Latin literature and learning a large enough field for a single volume. On the other hand, he does not limit himself to the twelfth century, but both goes back into the eleventh century and forward into the thirteenth in the material which he includes. The former course seems legitimate enough, since the medieval revival, which has commonly been referred to as the twelfth-century renaissance, may really be traced back in certain departments of human activity at least to the previous century. But the use of examples and quotations from writings of the thirteenth century seems more questionable for two reasons. In the first place, it would have been more forceful and convincing to include nothing beyond the year 1200, since the title of the volume indicates that its object is to present merely the revival of learning and not medieval culture at its height. Secondly, the inclusion of so much material from the thirteenth century may give the unfortunate impression that there was a dearth of it for the twelfth century, and that this had to be eked out from the age following. The criticism is also likely to be made that some of the quotations, which merely reproduce existing translations in other works available in English, are too familiar and might better have been replaced by fresh renderings of other passages from the medieval originals. But in the main the book is fresh and full of interest in the material presented, lively and entertaining in its method of presentation, as well as resting upon a basis of sound scholarship.

LYNN THORNDIKE

Mother India. By KATHERINE MAYO. New York, Harcourt, Brace and Company, 1927.—xiv, 440 pp. $3.50.

This remarkable book is based upon studies and personal observations made in connection with a visit to India begun in the autumn of 1925. Though it might seem that Miss Mayo's investigation of the microcosm, the Philippines, in *The Isles of Fear* might have challenged her to study the macrocosm, India, there is no hint of such relation between the two undertakings beyond occasional references to analogies between the two problems. Her avowed intention was "to see what a volunteer unsubsidized, uncommitted, and unattached, could observe of common things in daily human life" in order to enlighten "the average American", whose colossal ignorance of India incurred her "dissatisfaction". Furthermore, she declared

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her purpose of "leaving untouched the realms of religion, of politics, and of the arts" and of confining her "inquiry to such workaday ground as public health and its contributing factors", since "none of these points could well be wrapped in 'eastern mystery', and all concern the whole family of nations." There can be no question of the thoroughness of Miss Mayo's efforts to see for herself the various parts of India and the diverse conditions of life, or of her painstaking care, through conversation and reading, to assure the fullness and accuracy of her information and the validity of her judgments. Nevertheless, as she anticipated, both her data and her conclusions have been not only severely questioned but also roundly denounced.

Despite the simplicity of her avowed aim of confining herself to the subject of public health, the volume lacks unity of content and coherence in presentation. The thirty chapters are divided into five parts, each prefaced by a clever literary vignette of Indian life. The storm center of the book is the first part which deals with the sex life of Indian peoples, especially the Hindus. Nationalist denunciations of British domination as responsible for the "slave mentality" of the peoples of India are controverted by the plausible argument that the total of 67,432 British officers and men in all branches of the government service could not conceivably hold the 247,000,000 inhabitants of British India in subjection. Miss Mayo elaborates a different explanation. As the prophet Hosea upbraided his kinsmen of ancient Israel and forecast ruin and captivity because the "spirit of whoredoms is in the midst of them," so this American spinster reasons against the peoples of the sub-tropic Orient:

> Take a girl child twelve years old, a pitiful physical specimen in bone and blood, illiterate, ignorant, without any sort of training in habits of health. Force motherhood upon her at the earliest possible moment. Rear her weakling son in intensive vicious practices that drain his small vitality day by day. Give him no outlet in sports. Give him habits that make him, by the time he is thirty years of age, a decrepit and querulous old wreck—and will you ask what has sapped the energy of his manhood?

Such passages cause every thoughtful reader to question the fundamental truth of this volume as a whole. No one acquainted with India at firsthand would venture to deny that there is a substanial basis of fact for this indictment. The charges are, however, too sweeping to carry entire conviction. Differences of race, climate, and historical experience, not to say religion, can not be left out of the reckoning. Thousands of westerners, including not a few women,

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have brought back their testimony from India, so that only a century-old conspiracy of silence could explain the reservation to Miss Mayo of the privilege of first revealing the full frightfulness of the truth about its peoples. Obviously the degree of truth can not be stated in scientifically determined percentages, but it may be recalled that the Omniscient had to tone down the one hundred per cent estimate made by Elijah in denouncing an ancient case of flagrant Oriental iniquity. The unimpeachable facts are bad enough. The tares are abundant in India, but there is some wheat, even among the Hindus. Few, if any, would throw doubt upon Miss Mayo's recital of specific cases and conditions of shocking evil, but reasoning—often it is by implication, rather than by definitely stated conclusion—from the particular to the general is doubtful wisdom as well as perilous logic.

The status of woman in India is the theme of the second part of the book. Woman is man's inferior; in a sense, she is the slave in turn of father, husband, and son. The Indian mother-in-law is more than proverbial, her authority over her daughter-in-law has been rigorously established by age-long custom. Marriage and motherhood are forced upon girls before there has been any opportunity to train them for either of these responsibilities or to give to more than eighteen in the thousand even a smattering of primary education. Child marriages make child widows; there are 26,834,838 widows in India, condemned by custom to drag out a pitiful and useless existence. Confinement cases are handled with ignorance and brutality; in each generation more than 3,000,000 women die in childbirth. Annually more than 2,000,000 infants die before reaching their first birthday. Seclusion, *purdah,* is enforced by the Hindus, and more strictly by the Mohammedans, upon their women, though not as rigidly in Bombay and Madras as in other provinces. For one-third of the 40,000,000 women living in *purdah,* the seclusion is absolutely unbroken through life. Narrow quarters and lack of exercise or diversion invite tuberculosis and other diseases to such an extent that the mortality of females in Calcutta is said to exceed that of the males by forty per cent. The older women are the worst opponents of improvement. Only 30,000—two females in ten thousand—are receiving education above the primary stage, and these "daughters of rich landlords; of haughty Brahman plutocrats; of militant nationalist politicians, ferocious denouncers of the white man and all his works, [are] fed and lodged by the dimes and sixpences of dear old ladies in Illinois and Derbyshire, and taught

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the a-b-c of responsible living by despised Christians and outcaste apostates."

The untouchables and the educational question are the two topics considered in part three. Custom classes one-fourth of the Hindus as outcastes; there are 60,000,000 of these untouchables. Mohammedans and Christians know no caste. Conversion is the road to self-respect; should the outcastes take it, the position of the Hindus would be roughly shaken and they would have only themselves to blame. The growth of Christianity and the anti-Brahman movement are not the only signs that the untouchables are awaking. As education is practically withheld from the women, so is it from the untouchables. Hindu custom, not British blundering, is, thus, responsible for denying education to no less than sixty per cent of India's population. The distribution of ninety per cent of the population into 500,000 small villages renders exceedingly difficult and expensive the task of bringing education to the masses of the Indian peoples. Custom, or as Miss Mayo argues, the uncontrolled sexual instincts of the men of India, prevents the employment of women teachers. The educated young Hindus would rather agitate against British oppression than give themselves to the task of training their fellows for intelligent citizenship. The British (there are only 200,000 all told, men, women, and children) and the Christianized outcastes are the only persons (Miss Mayo does not mention the Christian missionaries) who are really doing anything to uplift the masses in the 500,000 villages.

So far as there is a general theme to part four, it is the political competence, or rather incompetence, of even the princes and the educated men of India. There is an element of sarcasm in allotting four out of seven chapters to the cow—a sacred animal to the Hindu. The cost of feeding useless cattle is calculated at four times the land revenue of the country. British governmental efforts to improve breeding and to prevent cruelty to animals are rendered almost nugatory by Hindu inertia and by political cantankerousness in the parliamentary assemblies. The powers of creed, caste, and family operate to prevent even a well-intentioned Indian from behaving with justice and impartiality in an official capacity. An historical survey shows that no previous rule in India has operated so largely for the welfare of India as has the British. The British, even in the Company days, have been striving honestly and faithfully to govern India for India's good; few of India's own best classes, notably since the extremely liberal Montagu-Chelmsford reforms of 1919, have shown a willingness to cooperate in this task.

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The vignette at the beginning of part five neatly hits off the peril to India from the rude tribes of Central Asia and from Soviet Russia, should the British defence of the Northwest frontier break down or be withdrawn. The succeeding chapters deal with six present-day problems. Biting sarcasm characterizes the treatment of the Hindu's position with relation to the Mohammedan, especially in the case of the Moplah affair of 1921. Comment is equally caustic on the Chauri Chaura incident which is wrongly placed six months *before* instead of *after* the Moplah disturbance. Indian indifference to sanitation is vividly depicted in a description of the Holy City, Benares, which every Western visitor is able to verify and even amplify, and by an account of the stupidity displayed by the Municipal Council of Madras in managing the city's water supply. India suffers enormous economic and social loss from failure to combat the hookworm disease, and also menaces the whole world with its practically endemic pestilences of cholera and bubonic plague. The account of the quackery of Indian physicians ends with a sharp crack at Mr. Gandhi. Finally the Indian allegations of the economic drain resulting from British rule are sharply combated and counter-explanations of India's poverty established—score: seven hits. British rule, through preventing war and disorder, checking famine and disease, and increasing the production of food, enables the same area in India to sustain 54,000,000 more human beings than fifty years ago. Three appendices present additional data and an index finishes the volume.

Miss Mayo writes a clear, vigorous style. With the possible exception of two chapters, facts follow facts in close array and interest is held at a high pitch. Statistics from official sources and quotations from eminent Indians, especially Mr. Gandhi, are marshaled with telling effect. Traveling with a motion-picture camera is fascinating, but it is doubtful whether the vivid pictures brought to those at home convey an entirely accurate view of the normal life of the people portrayed. The reader is often tempted to think that Miss Mayo's lively, sometimes shocking, pictures of the peoples of India demand the same qualifying comment. Certainly one does see much in India that is not to be found in these pages. She has caught, as many a traveler has, quite accurately the obvious, perhaps one should say the superficial, aspects of Indian mentality, but it is very doubtful whether she has fathomed its deeper qualities. It is also questionable whether her impatience with the Indian's political immaturity and inexperience is entirely justified. Consider, for instance, this paragraph:

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> The [constitutional] scheme in its shape of today has not the stability of the slow-growing oak, root for branch, balanced and anchored. Rather, it is a hothouse exotic, weedy, a stranger in its soil, forced beyond its inherent strength by the heat of a generous and hasty emotion. An outsider sitting today through sessions of Indian legislatures, Central or Provincial, somehow comes to feel like one observing a roomful of small and rather mischievous children who by accident have got hold of a magnificent watch. They fight and scramble to thrust their fingers into it, to pull off a wheel or two, to play with the mainspring, to pick out the jewels. They have no apparent understanding of the worth of the mechanism, still less of the value of time. And when the teacher tries to explain to them how to wind their toy up, they shriek and grimace in fretful impatience and stuff their butterscotch into the works.

After all allowances, this is a valuable book, replete with the "living facts of India today." The reader frequently wonders, however, whether the result would not have been more effective if, instead of essaying the rôle of the prophet, Miss Mayo had restrained herself to a more dispassionate presentation. The reviewer can do no better than to close with Miss Mayo's final sentences:

> Some few Indians will take plain speech as it is meant—as the faithful wounds of a friend; far more will be hurt at heart. Would that this task of truth-telling might prove so radically performed that all shock of resentment were finally absorbed in it, and that there need be no further waste of life and time for lack of a challenge and a declaration.

GEORGE MATTHEW DUTCHER
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Business Without a Buyer. By WILLIAM TRUFANT FOSTER and WADDILL CATCHINGS. Boston, Houghton Mifflin Company, 1927.—xx, 205 pp. $2.00.

In words of the authors, "*Business Without a Buyer* is an attempt to give, in popular form, the substance of *Money* and *Profits*." These two previously published books presented in more detail the authors' theories of the interrelationships of the circulation of money, the volume of production, the consumptive capacity of consumers, and the so-called business cycle, or, as they express it, the problem of "making the flow of money to consumers keep pace with the flow of goods to market."

Although the capacity of our economic society to produce increases, real wages of workers and standards of living do not show corresponding improvement. Moreover, every period of prosperity is followed by

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a period of depression which wipes out previous gains. The reason for this distressing state of affairs is that we do not produce the goods which our resources would otherwise enable us to produce, because we fear that we cannot sell them at prices which make continued production possible. We cannot sell them because the people who would like to buy them do not have sufficient incomes. Two reasons are given for this lack of money on the part of consumers: (1) Production for profit does not yield to consumers enough money to buy the goods; (2) of that received, consumers cannot spend all but must save some.

This situation, called by the authors the "dilemma of thrift," is stated to be the basis of the difficulty: individuals and corporations must save, yet savings when invested provide for increased productive capacity without an accompanying growth in the power of consumers to purchase, *unless* prices are reduced or the volume of money in circulation is increased. It is assumed by the authors that falling prices are bad *per se,* even though growing out of the increased productivity of enterprise. The experience of the past four years, during which prices of industrial commodities have declined while industry has continued prosperous, does not support this assumption.

In connection with changes in the amount of money in circulation, the authors do not carefully canvas all possibilities of relief from this source, although they state that the problem is a monetary one. They include in their concept of money both currency and bank deposits subject to check. It is suggested that the deficiency caused by saving may be made up in some way, but if it is more than made up or not entirely made up, trouble results. The solution of the problem obviously lies in some scheme by which the discrepancy is exactly made up. The authors have a scheme which they propose to present expressly in a later book, but which they state is given implicitly in this book, as well as in their other published volumes.

After presenting their theory in simple terms, the authors discuss, from its viewpoint, six economic problems of current importance—installment selling; the growth of the automobile industry; the control over industry exercised by the Mussolini dictatorship; the relation of foreign trade, foreign debts, and the tariff; the stabilization of prices through credit control; and the industrial policy of high wages, low prices and mass production, as typified in the Ford plants. These have been important developments in the economic situation during recent years and as given by the authors in part are explanations for the absence of periodic business recessions, which

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according to their theories would be expected normally to occur, and in part provide suggestions as to possible solutions for this economic Sisyphus.

Installment selling provides the increased flow of money to consumers—in the form of credit—needed to purchase the growing volume of consumers' goods produced by industry in a period of increasing productivity. This enhanced purchasing power has thus permitted during recent years production of goods which could not otherwise have occurred, and in turn wages and dividends paid in connection with this production have further increased purchasing power. But, according to the basic theory of the authors, this increase in payment of wages and dividends by producers is for some reason never quite sufficient to enable consumers to pay for the increasing volume of new products and must soon come to an end. It is promised, however, that an efficient system of financing consumption, on a satisfactory, permanent basis, as installment selling is now doing temporarily, on a questionable basis, can be found without difficulty, once we are convinced that it must be found. Is this a hint as to the solution?

The present material prosperity of the United States is due chiefly to the automobile. To the expansion of this industry are attributed the recent increases in the volume of money, in consumers' income, in real wages, and in profits, and the growth in building operations, in railroad development, and in highway construction. The process of developing this industry—extension of credit for the building of factories and the purchase of supplies—provided consumers with purchasing power to buy the automobiles when completed. As long as this expansion of plants—and of credit—continues, the growing industry thus provides purchasers for its own products. Growing industries in this way generate prosperity. But it is necessary that industry continue to grow, with the assistance of the judicious use of credit, in order to maintain prosperity, and there is a limit ultimately to the extent to which any single industry may expand.

Henry Ford has been an important factor in the growth of the automobile industry and typifies the chief characteristics of its growth—mass production, high wages, short hours, and low prices. But the raising of wages and the lowering of prices cannot go far enough to enable consumers to buy all the products that industry can produce. There must be a margin between selling price and cost, and this margin—according to the authors—is put back into production and not into consumption. Corporate savings are a large factor

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in the dilemma. On this the authors insist in chapter x, although in chapter vi they show that the use of savings in the expansion of an industry provides an adequate supply of consumer purchasing power to maintain prosperity. Is it not true that savings, both corporate and individual, unless they are hoarded, are always used for some purpose, such as the expansion of plants, which involves the purchase of goods and the payment of wages and which thus provides consumer purchasing power?

It seems that a dictator is especially suited to overcome the dilemma of thrift and, therefore, Mussolini can, if he would but realize it, easily make Italy prosperous. The way it is to be done, of course, is simply to see that the flow of money to consumers is sufficient to buy the products of Italian industry. Efficient systems for getting goods consumed should be added to efficient systems for getting goods produced.

Additional loans to foreign buyers, already our debtors by large amounts, enable American industry to continue to sell abroad more than this country buys from other countries. Acceptance of goods in payment for debts owed us by foreigners, or discontinuance of exports, would have a depressing effect upon industry. Some means must be found which will "enable the people of the United States to consume as much as they produce of consumers' goods, or the full equivalent in the products of other countries."

In chapter ix, after giving an exceedingly naïve description of supposed control of the price level by the Federal Reserve System, the authors state, however, that the reserve system would not be able to prevent changes in the price level caused by a deficit in consumer income, which is certain to come at times. An expansion of money in circulation by means of bank loans is generally on the producer side, and what is needed at such a time to prevent a fall in the price level is an increase in consumer money. The Federal Reserve System finances production but not consumption. This seems to be another hint that the authors' forthcoming suggestions for solving the problem will involve some scheme for providing consumer credit at propitious stages of the trade cycle.[1]

WOODLIEF THOMAS

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[1] Since this review was written the authors' book, *The Road to Plenty*, giving their proposed solution, has been published.

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America Comes of Age. By ANDRÉ SIEGFRIED. Translated from the French by H. H. HEMMING and DORIS HEMMING. New York, Harcourt Brace and Company, 1927.—x, 358 pp. $3.00.

In the forty years that have elapsed since James Bryce wrote the *American Commonwealth* the United States has passed into a new era; and Bryce's book, once invaluable as a description and a guide, has become an historical document revealing a civilization that has gone. The new civilization that is establishing itself has become as intriguing to its contemporaries as the old one was to Bryce. The curiosity of Europe as to the meaning of post-war United States has produced many attempts at description and analysis in the last five years. Of these, none exceeds in penetration and intelligence this sketch by André Siegfried, *America Comes of Age.*

In their fundamental approach to the task of describing the United States, Bryce and Siegfried show differences that help to reveal the changed nature of the job. Bryce saw an experiment in self-government, a republic dominated by British stock, standing not quite as one of the colonies of England but as a close relative whose birthright could not be concealed. He had as few doubts about the future as his Americans had; and he described in brilliant portraiture a going concern that had a future before it.

André Siegfried sees a changed situation. The certainties that Bryce beheld have been turned to doubts. The experiment in government is regarded with slighter veneration. Neither Americans nor observers are so sure that the United States has solved its problem of cooperative life. And for the American people itself, the question is no longer how a British offshoot will develop on a frontier continent, but how long a British governing class can withstand the pressure of a rising tide of newcomers. The centre of Bryce's book was its description of the structure and operation of the American Government; the centre of Siegfried's is the series of problems, not yet even fully faced, upon whose solution the fate of the United States may depend.

First, and with greatest zest, Siegfried takes up the question of the "melting pot." The type American of the ruling class, he declares correctly, has usually been of British stock, of rural background, and of Protestant faith. The ruling class of the next century seems quite as likely to be of Latin or South European ancestry, of urban proclivity, of Catholic religion—or of enough of these to make him different in his outlook upon life from his predecessors

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in power. So long as Americans of the new immigration were in the minority, and were the holders of the dirty jobs, the American Government almost ran itself; but with their "coming of age," and with their demand for full recognition as members of the partnership, there came a crisis that helps to explain many of the present-day currents in American thought. The diligence of M. Siegfried has been great. He has traveled widely, questioned wisely, and made contacts with every shade of opinion. His chapters on the ethnic situation carry conviction and no student of contemporary America may question his statement of the issue: "Will America remain Protestant and Anglo-Saxon?"

The single approach to a criticism of M. Siegfried comes through history. Twice at least, domestic shifts have already produced new conditions of equilibrium that seemed to the ruling classes of the moment to involve complete destruction of American values. The arrival of the Jeffersonians in 1801, and that of the Jacksonians in 1829, threatened revolution. But as one looks back upon these episodes today, nothing happened; at least nothing that was not already predicated by the curve of development upon which the American people had run since their beginning. One may, from this point of view, ask now: Will it matter greatly? Is there not as good a chance that the spirit of America will function normally through Romanist and alien, even though the alien be from Southern Europe, as there was for its survival a hundred years ago when Jackson and his backwoods friends took charge? M. Siegfried's analysis seems conclusive, but his inference needs testing. The essence of America has shown itself in the metamorphosis of colonials in the past; there is no proof that it will fail so to operate in the future. Probably the Anglo-Saxon never dominated so much *qua* Anglo-Saxon as *qua* American. And certainly the Anglo-Saxon element was never as unmixed as many of our one-hundred-per-centers would have it. But at any rate, the racial mixture has been much altered since the day of Bryce; and the Anglo-Saxon has not shown the highest ability to perpetuate himself. "Intellectuals and university graduates marry late and have practically no descendants," says M. Siegfried (p. 111); "Left to himself the 100 per center is not given to brain work" (p. 27).

The economic and political analyses are less novel, if not less penetrating than those of race. M. Siegfried has seen well in noticing that parties have come to follow opinion instead of leading it. He touches upon the methods by which groups in America

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organize their propaganda societies and push their argument without reference to party lines. "The country accepts the existence of a politician class . . . ", he says; "and it pays them a heavy commission in order to be able to use their intervention and their equipment; but it does not let them handle anything vital, for in the end they are the slaves of public opinion" (p. 255). His lists of societies for propagating opinion are impressive as he prints them. He does not understand the forces of American opinion as completely as does Mr. Walter Lippmann; but he has the clue to their interpretation.

It is a trustworthy, original, and disquieting book.

FREDERIC L. PAXSON

UNIVERSITY OF WISCONSIN

Problems of Industrial Development in China. By HAROLD M. VINACKE. Princeton University Press, 1926. — xi, 205 pp. $2.00.

There will be little dissent from Professor Vinacke's contention that recent literature on the subject of China has tended to overemphasize the consideration of political matters at the expense of certain less dramatic economic aspects of the Chinese situation. Every serious student of modern Oriental history will welcome the author's effort to readjust the balance, and will share his hope that this preliminary study "will lead to a more extensive analysis of the whole problem and to its more exhaustive treatment." Professor Vinacke, who is already known for his *Modern Constitutional Development in China*, disclaims any intention of giving an exhaustive and definite analysis of industrial development in modern China, and states it to be his purpose "rather to sketch broadly some of the major problems to be solved before the new industry can establish itself on a firm and enduring foundation." In fulfillment of the task which he has set for himself, the author treats his subject in six chapters, of approximately equal length, under the titles: "Industrial Development in China", "The Government and Industrial Development", "Government Finance", "Currency Reform", "The Problem of Communication", and "The Organization of Industry in China."

Those who are accustomed to demand of literature dealing with China that it be "up to the minute" in all details may find the book

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disappointing. Professor Vinacke has made but few concessions to this popular demand. Save for a half-dozen references—in footnotes or in interpolated passages—his work, although published in the autumn of 1926, appears to be based throughout upon such material as was available not later than the summer of 1923. Despite the disappointment which this feature will cause among some of his readers, the author has acted wisely in thus limiting the scope of his studies. Too many works on China have been marred by efforts to interpret the latest telegraphic news; and such statistical value as the book may have lost, through not being thoroughly up-to-date, is over-balanced by its gain as a serious study of general conditions.

The real defects of the book lie in quite a different direction: not in its failure to be sufficiently up-to-date, but in its failure to be sufficiently "out-of-date". Although Professor Vinacke's qualifications for writing on the subject include some years of residence and study in China, he has fallen into an error which is all too common to writers on Chinese questions: in his consideration of industrial and commercial desiderata, he has relegated China to a comparatively unimportant position in the background of the picture. Throughout his first five chapters—in spite of occasional references to peculiarly Chinese features of the situation—the major emphasis is laid upon the need for industrial development and upon various detailed changes which are necessary if such development is to become possible. Not until the reader arrives at the final chapter does he find the author attempting "an analysis of the organization of existing industry and the possibility of using that organization, or of adapting it for use, in a fundamentally different system of production from that found in pre-modern China."

But modern China is something more than an inanimate stage upon which certain conflicting forces are striving for supremacy. It is a nation, with all the time-honored prejudices, customs, and traditions inherent in an ancient and indigenous culture. Hence the reviewer submits that any satisfactory examination—however sketchy—of the problems of industrial development in China should begin with China, with the "pre-modern" organization of industry and with the "pre-modern" relationship between the Chinese government and the economic life of the Chinese people.

There is no intention here of criticizing the author on the score of unfriendliness toward China and the Chinese. Professor Vinacke displays, throughout his book, full sympathy with China's desire for economic autonomy, and his writing is happily free from any ten-

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dency to berate the Chinese for alleged political ineptitude. Nor does the book's weakness result from non-statement of the Chinese factors to the existing problems. Rather is it a matter of emphasis. In consequence of what the reviewer feels to be faulty organization of the material presented, the picture has been thrown out of proportion; the reader is confronted with the problem of industrial development before he has been allowed more than a cursory glimpse of China.

Perhaps this placing of the emphasis should be regarded as inevitable in any western study of China, and perhaps the reviewer will find himself alone in considering it unfortunate. It would seem, however, that some rearrangement of the subject matter in Professor Vinacke's six chapters would have produced a more satisfactory sketch. The material in the first and last chapters, with a little reorganization, would constitute an excellent two-chapter introduction to the study. This could be followed, in order, by chapters on "Communication," "Government and Industrial Development," "Governmental Finances," and "Financial Reform," reserving—by all means—the author's present last paragraph to supply the concluding note to the study.

Of minor defects the book is pleasantly free. The brief bibliography unfortunately does not give places or dates of publication and contains the one typographical error that has been noted: "Cheng Tih-gang" for "Cheng Sih-gung". On page 141 the author errs in his statement that the Imperial government, just before its overthrow, "consciously reverted to the earlier idea of a unified system [of railways] for the entire country." This step was not a "reversion" to an "earlier idea", it was a bold and, as events proved, disastrous innovation. On pages 22 and 141 appear somewhat divergent statistics regarding the mileage of China's railways—a conflict which would have been checked and corrected if a more adequate index had been provided.

G. Nye Steiger

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The Negro in American Life. By JEROME DOWD. New York, The Century Company, 1926.—xix, 611 pp. $5.00.

The American Race Problem. By E. B. REUTER. New York, Thomas Y. Crowell Company, 1927.—xii, 448 pp. $2.75.

Both of these volumes analyze the problems of race relations between the Negroes and the white people in the United States, paying particular attention to the causes of maladjustment and to programs for the improvement of the situation. Professor Reuter's work is by far the more comprehensive and scientific of the two, though both contain valuable material for the student of race as a factor in American life.

Professor Dowd rightly begins his discussion of the American Negro with a statement of his African and slave backgrounds, but it would seem that three pages do not allow sufficient space for the demonstration of the tropical influences, and that eight pages are equally inadequate to show the slave conditions which have so greatly affected the life of the modern Negro. Similarly, one may question the wisdom of devoting only two chapters totaling fifteen pages to the subject of migrations, while "The Negro in the World War" is allotted eight chapters totaling fifty-three pages.

The use of extended quotations in Professor Dowd's book is so general that the result is something of a cross between a college text and a source book. Such a literary method might be justified by a wise choice of sources, but when the references cited are as few and as old as they are in a number of chapters, the value of the entire work may properly be doubted. For example, there are three chapters dealing with the higher education of Negroes in the South, and only two sources are cited, both of which are over ten years old. Further, the only references in chapter ii on race and crime in the North, four and a half pages in length, are twenty-three page citations from the report of the Chicago Commission on Race Relations and one from Haynes, *The Negro at Work in New York City.*

Perhaps the author's point of view can best be shown by a few extracts from his work. "The Negro, like the Italian and other races of southern latitudes, has the extrovert mental temperament which inclines him to commit crimes against the person, or against decency and public order, rather than against property" (p. 115). "No two races could possibly offer more striking contrasts than the Anglo-American and the Negro. The one has self-reliance,

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sequestration, Puritan rigor, and an inclination to morbid introspection. The other has a childish spontaneity and nonchalance, and a disposition to lean upon any one of strong will and self-assertion" (p. 593). "In regard to the psychological characteristics of the Negro, the first fact to notice is that there is more uniformity in them than there is in those of the Caucasian" (p. 401). It is of course true that these quotations are here reproduced apart from their context, but they are still indicative of Professor Dowd's approach to his problem. His statement of the Negro's future is in a measure summarized by the last topic in his table of contents—"Likelihood of Compensating Advantages to Both Races If Each Faces the Problem with Soldierly Courage and Faith in Human Destiny".

To summarize, the seventy-two short chapters in Professor Dowd's *The Negro in American Life* are badly planned in regard to subject matter, method of presentation and balance. They consist largely of poorly selected old materials, reprinted (or rephrased) without adequate critical analysis and without sufficient unified interpretation to give them life. Scattered throughout the book is much of value to the advanced student of race for reference purposes, but dangerous in the hands of the untrained reader. More careful organization and selection would have made it a generally useful, if biased, work.

Dr. Reuter has written *The American Race Problem* in a careful, scientific manner which well merits the time and concentration required in following his cautious reasoning about the social adjustment of the American Negro. Quotations and footnotes are conspicuously absent, for his work "is designed to serve as an outline and as a point of reference as well as to provide an organization and a point of view. It is not intended as a substitute for the study of the concrete material" (p. vii). The heavy, text-book method of presentation is perhaps unfortunate, but it does enable the author to avoid the dangers incident to the popularization of race studies.

The background, numerical growth, modern problems and probable future of the Negro are discussed by Dr. Reuter in standard form, and from a point of view which neither places much confidence in the influences of inherent racial differences on social progress, nor is too much colored by the idea of essential racial equality. It is refreshing to find a man who is sufficiently courageous to write about the Negro and include an unbiased appraisal of his literature, music and art. It has recently been a most popular

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practice to praise generously ordinary Negro novels, poems and other achievements as though they had peculiar merit apart from the color of their authors. Dr. Reuter recognizes the great economic and cultural strides recently made by the American colored group, but he does not allow himself to be carried away by these racial advances which, after all, in the abstract, are not especially noteworthy. This fact is perhaps the best indication of the temper of his work. It is certainly the most scientific statement of the Negro problem in the United States which has yet appeared.

Careless editorial work is evident in the productions of Professors Dowd and Reuter. Professor Dowd ascribes *The Laws of Heredity* to G. "Archibald" Reid and *Applied Eugenics* to Paul Popenoe alone (p. 598). John Mecklin is said to be now at the University of Pittsburgh (p. 303). Professor Reuter repeats himself needlessly and frequently. Typographical errors are not uncommon. Both authors frequently fail to give the date of publication of the books to which they refer.

By way of prophecy, it may be said in conclusion that neither of these books will be received with any considerable enthusiasm by the Negro leaders now prominent.

DONALD YOUNG

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The Twilight of the White Races. By MAURICE MURET. Translated from the French by MRS. TOUZALIN. New York, Charles Scribner's Sons, 1926. 286 pp. $3.50.

This volume is one of those works which sociologists love to produce in order to arouse argument and discussion on questions dealing with the life and development of peoples. Such books are not scientific studies. Nor do they settle or determine anything—perhaps they are not intended to do so; but they serve their purpose if they arouse nations to a serious contemplation of contemporary civilizations and the dangers that lie about them. If this was the intention of M. Muret, the writing and translation of his work may find some justification. Otherwise, one sees no good reason for its production, in spite of the clarity of expression and the interesting style of the author.

He begins his discussion with a short chapter on "Europe Discredited and Torn Asunder" in which he attempts to justify the pessimistic declaration of Sylvain Levi of the College of France in

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1924 on his return from the Far East: "What we see from a distance, in the Orient, is the destruction of Europe". And in the second chapter, entitled "Wilsonism: Its Disruptive Tendency", he lays much of the blame for a disordered world upon the shoulders of our late President, claiming (p. 44) that "he spread through the world a revolutionary ferment of untold violence, and of unparalleled efficacy, whose results it is impossible to foretell, through his doctrines concerning the rights of small nations and subject peoples." Then follow a series of thirteen chapters with such titles as: "The Bolshevist Challenge", "The Rise of the Black Race", "Turkey against Europe", "The Arabs against Europe", "India under the English", "The United States and the Awakening of the Peoples (in Mexico, Central America and the Philippines)", and "The Red Flag at Peking", in which he shows the dangers to the white races and to Christian civilization from the rise of Bolshevism and its intrigues in the Orient, the awakening of the black peoples, the antagonism of the Turks and the Arabs, and the march of nationalism in the Orient.

All this is interesting, but it is not convincing. For the author does not make a scientific study of any of the important developments to which he refers, but contents himself merely with general statements to the effect that, since the white races are losing their grip as dictators in world affairs, in colonial developments and in the government of African and Oriental countries, the European races have reached the twilight stage of their existence, and western civilization is doomed. The weakness of his position lies in the carelessness of his definitions, and in the fact that he sees only one side of the picture. From his text, one is led to believe that "Imperialism" and "Christian civilization" are synonymous terms. Indeed, some intelligent Orientals have seriously taken such an interpretation to heart. But we now know that "Imperialism" is only an expression of the selfish and grasping nationalism of certain great powers. It has little in common with the real elements of western civilization. Indeed, no one claims today that "Imperialism" has been an unmixed blessing—either for the European states which indulged in it to promote their own interests, or for the so-called inferior peoples it was supposed to aid. And it is generally admitted that the attempt of European powers to expand western civilization abroad, to extend their own power and commerce, and to promote the development of the less developed nations by force and intervention, is a failure.

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Moreover, the author fails to grasp the full significance of the national movement in oriental countries, when he refers to it as a serious danger to western states and as set on foot to destroy Europe. It does not follow necessarily that, because the Russians have set up a new form of government and are struggling to work out their own national destiny in accord with certain theories of their own, the essence of this movement is the destruction of the rest of the world. Nor are we safe in concluding that, when the Chinese decide to rid their country of foreign domination, and to establish a republic of their own, the chief plank in their platform is the overthrow of Europe. It may well be a better thing, not only for the white races, but also for the rest of the world, if the Anglo-Saxon races withdraw altogether from their domination over the yellow, the brown and the black peoples, as rapidly as it is feasible to do so without upsetting the world and doing violence to the life and development of these races. It is still an open question whether or not such oriental nations as the Turks, the Persians and the Chinese cannot work out their own destinies to better advantage on their own feet and with their own institutions and resources, than under the dictation of a foreign ruler or dictator. Indeed, there is a good deal of evidence already on hand to prove that the various national movements in oriental lands today are steadily and surely improving life and conditions in Asiatic countries.

Fortunately, the tendency of the times is not towards greater European expansion or a more rampant and dominant imperialism. The world is sick of force and war. The problem of the East is how to establish a just and honorable relationship between the West on the one hand and the Orient on the other, which will promote the welfare of all nations whether white, black or yellow. Hence the creation of the League of Nations, the mandate system, and the other agencies for the promotion of well-being and goodwill among nations and for the development of backward peoples.

Moreover, the establishment of new forms of government and methods of administration, such as are being put into operation in Russia, Italy and China today, does not prove that democracy is a failure. It merely brings to light clearly some of the weaknesses of our democratic institutions and puts democratic governments on their mettle to keep pace with the times and needs of their own people, and to make at once those reforms necessary to keep democracy efficient and working at high speed for the welfare of its citizens.

NORTHWESTERN UNIVERSITY NORMAN DWIGHT HARRIS

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American Foreign Investments. By ROBERT W. DUNN. New York, The Viking Press, 1926.—xiv, 421 pp. $5.00.

American Loans to Germany. By ROBERT R. KUCZYNSKY. New York, The Macmillan Company, 1927.—xii, 378 pp. $3.00.

Easily the most important development in our foreign affairs since the World War has been the enormous investment of American capital in foreign countries. These books are a contribution to our knowledge of what has been going on. Neither makes a pretense of theoretical analysis, nor does either espouse a public policy. But both may be turned to with confidence as compendia of information.

Mr. Dunn's volume is really of general usefulness, though modest in its aims. It is limited to simple statements of surface facts. The American Chicle Company has over 5 million acres of chicle-producing lands in British Honduras, Mexico and Guatemala. The National Match Factory of Bolivia, with main offices in London, has American money in it. The Standard Oil Company's investment in Roumania represents approximately $70,000,000. And so on. Statements of this sort are grouped by regions and countries. There are also tables of securities recently issued in the United States on behalf of foreign governments and enterprises, tables of foreign issues currently dealt in on the Stock Exchange, and a chapter on "Foreign Connections of United States Banks". These data are compiled chiefly from sources generally available to the public, to which there are unfailing footnote references. There are few positive errors, although in covering such a wide area for the first time, some slips of understanding were unavoidable. So the specialist in geography and regional finance will find in sections familiar to him, that the information is fragmentary, that all authorities are accepted with equal scepticism, and that no discrimination between the important and unimportant is allowed to color the plain statements of fact. In short the great usefulness of Mr. Dunn's book is as a collection of clues to which students, amateur and professional, of economic aspects of our foreign affairs will turn repeatedly to obtain direction for their industry and insight. In our state of financial innocence, the accompanying documents, which comprise two-thirds of the book, are not the least valuable material. They illustrate the concessions and loan contracts which our diplomacy is called upon from time to time to uphold.

Dr. Kuczynski's book is occupied entirely with an investment move-

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ment which has taken place since Mr. Dunn's information was collated, the sales of German securities in the United States from October, 1924, to December, 1926. This book is also essentially factual; it is a detailed and exhaustive study of all the features of all the loans. Furthermore, it is based to a great extent upon original documents. Dr. Kuczynski analyzes *all* of the security issues with which he is concerned according to purpose, form of instrument, provisions affecting payment, optional and compulsory amortization features, yield, security and burden to borrower. He discloses that Germany and German organizations have borrowed $885,000,000 on long-term securities during the period in question, of which $580,797,500 or sixty-five per cent has been secured in the United States. He points out that this is a large sum of money to lend to an industrial country, that it imposes an annual burden of $70,000,000 in interest and amortization charges upon the German exchange, that it may have some bearing upon the administration of the Dawes plan, and that many prospectuses contain flattering misrepresentations about the condition of borrowing cities (pp. 74-79).

In short Dr. Kuczynski has published in the form of a book a sample of the sort of spade-work any one must do who analyzes any group of security issues in the course of any kind of investigation. It is only in this respect that the volume will be of interest to any one not trading in German bonds. Otherwise, it is a reminder of the unequaled opportunities our civilization affords for the utilization of wood-pulp.

LELAND H. JENKS

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The Vanished Empire. By B. L. PUTNAM WEALE [BERTRAM LENOX-SIMPSON]. London, Macmillan and Company, 1926.—vi, 379 pp. $5.00.

This is a book that needs to be read twice. It is really three books: first, a fast-moving analytical sketch of China's internal history during a period of five thousand years; second, an account of the contact, principally by sea, between China and foreign states; third, a commentative diary-chronicle covering nine months, from October 26, 1925, to July 5, 1926. The author of *Indiscreet Letters from Peking* has always written brilliantly. In each of eighteen successive volumes, he has presented something new, interesting and instructive concerning China and the Chinese—and frequently concerning other countries

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and peoples. Whether at facts or at fiction, his is always a gripping style, the product always a ringing story.

This volume has followed close on the heels of *Why China Sees Red.* In Books I and II it has something of the swing of the Prelude in *Manchu and Muscovite.* In Book III there is a return to the style of *Indiscreet Letters.* Through I and II, the author is viewing the wood, from a height, in perspective—pointing out the big trees. In III, he writes from the ground, where the foliage is dense, the creatures are many, and details count—Peking. Born in China, having lived most of his life in China among the defenders of the Legation Quarter during the Boxer Siege, author of the best book concerning that critical episode, Mr. Simpson knows the forest and understands the trees. Perhaps some day something will induce him to supply an index,—or is he planning to supply a comprehensive index to his whole shelf of books? Meanwhile he does supply good illustrations: two of the dozen in the present volume are especially interesting, one of the meeting of the principal Northern War Lords and one of the "International Train"; also the facsimile of a Mongol proclamation.

The most tragic thing about modern China is that the magnificent work of three great rulers of the late dynasty has crumbled with the passing of the House which produced them. There have been two principal contributing factors: the usual decay of a dynasty, and the impact of the more positive and aggressive peoples and institutions of the West upon the more passive and negative civilization of the most ancient, the most numerous and the most self-satisfied nation of the East. "The Chinese were to become a people with elaborate ethics but with no other protection, the codes of the Emperors remaining to the end a series of summary instructions to executive officers having no foundation in unvarying rights. And this weakness, growing from generation to generation, encouraged the people to remain at heart lawless, relying upon violence as a corrective and unable to do as other races did in codifying their rights" (p. 19).

The foreign powers, by insisting that the Chinese Government be what it was not and do what it could not, destroyed the very foundations of the imperial system. By the provisions of the Nanking and the Tientsin treaties, they forced the Manchus to abandon the fundamental theses of Chinese political theory, the superiority of the Middle Kingdom and the unlimited and incomparable authority of the Emperor. "Seclusion and sanctity are synonymous". The Manchus and the Mandarinate saw where this would lead. They did not broadcast to their subjects the evidences of their defeat, because they dared

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not; on the contrary, they encouraged indifference to and disregard of provisions of the treaties. The Taiping Rebellion and things that came and went with it disclosed the ineffectiveness of the Manchu governmental machinery and the extent of Chinese disaffection. Then came the war with Japan, which "was like every other war China has fought with modern arms, a tale of disaster". The reform program of 1898 "might have been tolerated had it not touched two vital things —the sinecures and the budgets".

Fast following came the Boxer Uprising. "Everything foreign was going—the dynasty as well as the red-haired barbarians." ("It took thirteen months of anger and despair to produce the Peace Protocol of 1901. . . .") Then came frantic efforts at reform—too late. The Revolution "owed its strength to the weakness of the Throne. . . . . foreign sympathy was in favour of the Republic—particularly British sympathy. . . . It was now clear that the Manchu Dynasty was to give birth to government by commission under the name of Republic." "Yuan Shih-kai . . . tried to make China a republic from the outside and a monarchy from the inside". "The European War . . . removed the one safeguard, foreign support of the new régime." Japan tried in 1915 to establish an effective suzerainty—and failed. Yuan died in 1916, and China was "publicly surrendered to the generals". Soon "the armies . . . commenced the final phase in the national break-up by intercepting the daily revenues." By 1924, "complete poverty stared the capital in the face."

Mr. Simpson's 1925–1926 diary-chronicle (III) is particularly valuable for its contemporary accounts of and comment upon the Shanghai incident (May 30, 1925) and the problem of Shanghai; the Shameen incident; the Tariff Conference (to be read with care); the work of the Extraterritoriality Commission; Li Ching-lin's proscription of Fêng Yü-hsiang; the defeat of Kuo Sung-ling and the forces which destroyed him; the Taku incident; the International train; and the incident at the Presidential palace on March 19, 1926.

In perusing this chronicle the reader must have ever in mind the fact that it is a contemporary record and appraisal of materials, not a history. Thus, for instance, the author's frequent statements with regard to the Tariff Conference are largely a fabric of Peking gossip, surmises and conjectures. The chronicle abounds in epigrams and aphorisms. Thus: ". . . the great dramas in China are always noiseless". ". . . No Chinese army retains its spirit except when it is successful." "Civil war in China is an exaggeration of the street fight, . . . in which the chief protagonists are locked to inactivity by the dead-weight of the crowd" (p. 333).

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Among the documentary contributions are: a translation of the despatch sent by the Manchu conquerors to the last adherents of the Mings, at Nanking, calling upon the latter to submit ("No better summary of . . . Chinese history could be found than in this summons."); a translation from Chia Ch'ing's letter in Latin to George III giving the Emperor's account of the reasons for the failure of the Amherst Mission, quite at variance with Amherst's report and the usually accepted version; the text of the despatch, written by Palmerston, addressed to "The Minister of the Emperor of China", and carried when the British fleet went to China in 1840, a document which will especially interest those who contend that the war which followed was an "Opium War" ("Such was the argument, unanswerable enough to all who were the heirs of Roman jurisprudence—but not to be answered by, and indeed irrelevant to, those whose sovereignty could only be real if it were unlimited and unquestioned."); the texts of two of the three Abdication Edicts of 1912 and the Terms of Settlement ("His Majesty the Emperor is understood to resign only his political power while his Imperial Title is not abolished"); a translation of a Proclamation issued in the Mongol language by the Communist wing of the Kuo Ming (Nationalist) Party; the text of the note of the diplomatic body to the Chinese Foreign Office on March 16, 1926, concerning the Taku Bar and the Peiho River; and the Proclamation of April 10, 1926, denouncing Tuan Chi-jui and announcing the release of President Tsao Kun from prison.

Concerning the general situation and the problem that confronts the powers, Mr. Simpson states his conclusions in his Preface: "The chaos seems to deepen because the inadequacy of machinery for controlling men is made ever more manifest by the fading tradition of the Throne, and by the growth of factors rooted in another civilization. From this it may be deduced that the control of all non-Chinese instrumentalities must be vested in a new agency during an interregnum which will last until a new philosophy and a new rule of life shall have been evolved, or that the monarchy will be reintegrated." Needless to say, there always has been, there is and there always will be dissent from some of Mr. Simpson's diagnoses, and objection to some of his prescriptions.

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Social Struggles and Modern Socialism. By M. BEER. Boston, Small, Maynard and Company, 1926.—224 pp. $2.00.

This is the fifth and final volume of Mr. Beer's *General History of Socialism and Social Struggles*, which carries the history of social struggles from antiquity through the middle ages to our own day. The volume under consideration attempts a treatment of socialism and social movements (anarchism, syndicalism and others) from 1800 to the present. The task is large and since the book is small, two hundred and twenty pages of large type, an almost impossibly high standard of generalization and condensation would have to be maintained to avoid an utterly inadequate handling of the subject. Such a standard, unfortunately, has not been maintained. Although at times Mr. Beer strikes off phrases which glow a little more than palely, for the most part his generalizations are either hackneyed truisms or merely, as Bentham would have said, "vague generalities."

Those who expect to find in this volume the admirable scholarship and illuminating insight which distinguishes Mr. Beer's earlier book, the *History of British Socialism*, will be disappointed. Although a useful compilation of names, dates and figures significant in socialist history, it contains but meager treatment of socialist ideas and far from adequate descriptions of the historical situations in which the social movements dealt with have played their part. This is not so much a criticism of what the author actually says as a criticism of the whole attempt to deal with nineteenth-century socialist thought and movements within the space of so small a book.

Mr. Beer takes the orthodox Marxian position throughout and from this position is inclined to evaluate as well as to describe the thought and activity of the figures who march through his pages. He rather deplores the revisionism of Vollmar and Bernstein and the milk-and-water diet of English Fabianism. He sees in the nationalism of all the revisionist groups an attitude incompatible with socialism. In his opinion it is an uncontestable fact, "that, so long as private property, capitalism, and competition prevail, the interests of the various fatherlands do not coincide with the interests of international socialism."

Marxian also is he in his interpretation of economic history. He speaks of the "inherent tendencies" and "historical necessities" of modern capitalism and sees these tendencies and necessities

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through the glasses used by Marx. We have industrial crises because the "rapidly growing productivity of labor in conjunction with the unregulated and uncontrolled manner of creating goods and the proletarization of the masses, created a big disproportion between supply and demand." The expansion of foreign trade in recent decades springs from the necessity of ridding capitalistic markets of the surplus goods which these crises create. The tendency of profits to fall is also described in Marxian fashion. This falling rate of profits, again, is the explanation of the tendency towards large-scale production, which represents an attempt on the part of *entrepreneurs* to fight off this inevitable diminution. The decline of profits, itself, leads to further "capitalist contradictions". "The capital which could find no employment, or no profitable employment in its country of origin, is invested in non-capitalist or immature capitalist countries, where the rate of profits is still high and the Labour movement still weak." And of course in their competition for rights of exploitation in these "immature" countries, the capitalists of the lending countries enlist the support of their governments. In the ensuing conflicts we have one more evidence of the incapacity of capitalism to preserve and maintain the structure it has built.

The implication that Mr. Beer is an undeviating follower of Marx is unjustified, but he views not only the course of economic events but the theory and policies of socialist leaders and movements from the Marxian angle. And although for the most part, his book is a straightforward historical description, he becomes at times more or less than an historian.

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BOOK NOTES

The word "border" as employed in American history of the Civil War period, has usually been applied to the slave states that did not secede. In *The Borderland in the Civil War* (New York, The Macmillan Company, 1927; 412 pp. $3.50) Professor Edward Conrad Smith gives the term a different connotation. Generally speaking, he applies it to the region drained by the Ohio river plus the state of Missouri. He thereby excludes Maryland and Delaware which have hitherto been regarded as "border" states and includes the southern portions of Ohio, Indiana and Illinois, which have ordinarily not been thought of as forming part of the border. To the reviewer, at least, it seems that Mr. Smith in thus amending the term, has done well. He points out that the people of the southern portions of the three free states were in the main of relatively recent southern origin and had no quarrel with slavery as such. Previous to about 1850, when they became connected by railroads with the East, the chief outlet for their trade was *via* the Ohio and Mississippi rivers through the port of New Orleans. The South offered almost the sole market for their grain and products of grain, meat, live stock and whiskey. Mr. Smith is therefore probably right in maintaining that had the Civil War come a decade or two earlier, the people of the "borderland" as he defines it, would have joined the south, or at least remained neutral. Had it been postponed a decade or two longer, it might have been avoided altogether, for by that time, the distinctly nationalistic interests of the borderland which had not become apparent to the southern leaders in 1860, would have been manifest to even those rather obtuse gentlemen with the result that they would hardly have dared to undertake so mad a cause as was involved in secession. This theme constitutes the chief interest of the book and the justification for its publication. A great deal of space is devoted to the internal political problems of the states of the "borderland" and the relation of the Lincoln administration to these problems. On these points Mr. Smith has little more to offer than the general histories of the period and a good deal less than a number of excellent monographs which deal with them in detail in individual states.—B. B. KENDRICK.

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The *Introduction to the American Official Sources for the Economic and Social History of the World War,* compiled by Waldo G. Leland and Newton D. Mereness (New Haven, Yale University Press, 1926; 532 pp. $5.25) strikingly indicates the tremendous task which confronts the future historians of the World War. Here is a bare catalogue of the material contained in the American archives dealing with only economic and social aspects of the war. It treats, moreover, only official documents, making no attempt to survey the vast mass of unofficial publications. Turning the pages of this prosaic catalogue of laws, resolutions, publications, and records of the various government departments covering the four years from 1917 to 1920, one gets some idea of the extent to which the economic and social forces of the nation were mobilized for the purpose of war. Here is a record of a democracy, by definition ill-equipped for war emergencies, transforming its everyday life to meet a great crisis. In the process there was doubtless much blundering, duplication of effort and waste, and yet the sum total of accomplishment compels admiration. The compilers have arranged the official records according to the governmental authority from which they proceeded, beginning with acts and resolutions passed by Congress, and followed by a list of cases decided by the Supreme Court interpreting war statutes and actions of government officials. As might be expected, more than three-quarters of the material in this volume pertains to the activities of the various executive departments and commissions, giving striking evidence of the extent to which war upsets the so-called "checks and balances" of our constitutional system and concentrates authority in the executive department of the government. In conclusion the compilers have listed the various state war-history collections. This volume helps to lay the foundation for the tremendous undertaking which Professor Shotwell is so ably directing, a comprehensive social and economic history of the World War.—NELSON P. MEAD.

Cooperative enterprises such as *Recent Developments in the Social Sciences*, edited by Edward C. Hayes (Philadelphia, J. B. Lippincott Company, 1927; vii, 427 pp.) to be successful, require skilful advance planning and a unanimity of understanding by the contributing authors of the objectives of the joint work. If one is to judge by the results of this venture, there appears to have been no clear determination as to the purpose and scope of the volume and the method of treatment to be demanded of the contributors. The result is a curiously unbalanced work. The articles on economics

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and history are each approximately five times as long as the articles on political science and twice as long as those on anthropology and sociology. Some of the articles are ostensibly written for laymen and have the tang of the lecture forum, others are for the student or specialist. Some have extensive bibliographic references which others lack; the historical background of present-day currents is sometimes treated and at other times neglected. When considered individually, the articles are of unequal consequence, ranging from the brilliant, judicial contribution on cultural geography and the comprehensive discussion on history to the chapter on psychology which is thoroughly unsuited for inclusion in this volume. The article on sociology, which sincerely attempts to be synthetic, is rather a compilation of particularistic approaches with special emphasis on the psychological aspects of sociology. Political science is discussed too summarily to give more than the very general outlines of the subject. The contribution on anthropology, although felicitous in style and suggestive in content, is marred by inaccuracies in its brief historical introduction and by a surprising absence of reference to the work of Boas. The somewhat discursive though consciously fragmentary treatment of economics is excellent in its discussion of the effect of rationalization on economic theory. The editorial remarks are often ill-advised and irrelevant.—BERNHARD J. STERN.

After the researches of Monypenny and Buckle the career of Disraeli does not suggest itself as a promising subject for further original investigation, and neither of his last two biographers claims to have utilized fresh sources of information or brought to light facts not previously known. Both express their indebtedness to the authorized *Life*. Sir Edward Clarke's *Benjamin Disraeli* (New York, The Macmillan Company, 1926; ix, 308 pp. $3.25) was written with the simple purpose of presenting a "straightforward, trustworthy and sufficiently full record of the incidents of a singularly interesting career." The author makes no pretence to impartiality, and his admiration for Disraeli as a man, a literary man and a statesman, is apparent throughout, but his narrative is reliable as well as interesting. It deserves the success it has achieved, for it is probably the most satisfactory short biography of Disraeli that has been published. Mr. D. L. Murray's *Disraeli* (Boston, Little, Brown and Company, 1927; 299 pp.; $4.00) appears as a volume in the "Curiosities of Politics" series, which Mr. Philip Guedalla is editing, and is offered as an "impression". The writer, who is of mixed Jewish and British descent, has a thesis to propound, which is that Judaism

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was the dominant influence in Disraeli's career. All of his later life, Mr. Murray believes, was colored by his visit to the East, where he "learnt the royalty of his national descent" by "contact with the seat of his race." There is plenty of evidence in Disraeli's novels to show that the experiences of this journey made a powerful impression upon him. Yet his attitude, as Prime Minister, toward Russia and Turkey can be accounted for pretty satisfactorily without attributing to him, as a Jew, a subconscious hatred of the former and fondness for the latter. Mr. Murray's interpretation, nevertheless, deserves respectful consideration.

Dr. J. S. Marais, Lecturer in History in the University of the Witwatersrand, has made a valuable contribution to the history of British colonial expansion in describing the early settlements of New Zealand in their relation to the theory of colonization that inspired them. *The Colonisation of New Zealand* (London, Oxford University Press, 1927; xii, 384 pp. $4.00), which was originally submitted as a doctoral dissertation at Oxford, is based upon careful and prolonged research in primary sources, printed and manuscript, and is wholly free from the bias and provincialism that is conspicuous in much that has been written on the history of New Zealand. The ideas of the "systematic colonizers," the opposition which they encountered, and the formation and activities of the New Zealand Company are set forth in detail as the background of the pioneer settlements. The author believes that the missionaries were fundamentally wrong in their attitude toward the natives of New Zealand, though he gives them credit for good intentions and high ideals. He finds much to criticize in the conduct of the Colonial Office, but he recognizes that the abuse heaped upon Sir James Stephen by the colonial reformers is not to be accepted at par. Of particular interest is his analysis of the reasons for the failure of the New Zealand Company to realize its ideals of colonization.

The Great War, with its revolutionary effects on monetary and credit procedure, has done much to stimulate interest in the subject of money and credit. There is, of course, an enormous literature on the subject of money, but comparatively little of it has more than historical value today. The subject must be studied anew from the viewpoint of present-day monetary uses and needs. This requires not only an analysis of current practice and problems, but also a selection of material relevant to such analysis. In this connection Professor J. D. Magee's *An Introduction to Money and Credit* (New York, F. S. Crofts and Company, 1926; viii, 467 pp. $3.50) is of

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great value. It serves best as a text for the teacher in the classroom, because it supplies practically all the points necessary for discussion in a comprehensive course on the subject with which it deals, and its organization and content show that it was planned primarily for such use. The treatment is too compressed (the book contains thirty-eight chapters, each dealing with a special topic) to meet the needs of the general reader. But where additional reading can be made available and where the points raised in the text can be threshed out in open discussion, Professor Magee's book will be found very serviceable.—E. E. AGGER.

Another very interesting contribution to the monetary literature of the day is M. George Edgar Bonnet's *Les Expériences Monetaires Contemporaines* (Paris, Librairie Armand Colin, 1926; 218 pp. 7 francs). As the title of this little book indicates, it is a review of the monetary experiences of some of the principal countries of the world during and after the Great War. The experiences of England, of the United States, of Germany, and of France are discussed in separate chapters, and in an additional chapter the monetary tribulations of Austria, Czechoslovakia, Poland and Belgium are set forth. In the second part, which the author calls "Monetary Theories and the Lessons of Experience," he endeavors to test monetary theory in the light of facts and discusses the gold standard theory, the quantity theory, Keynes's scheme for a "managed currency," inflation, deflation, and the general problem of stabilization. It is obvious that these theoretical topics were selected because of their immediate relation to recent experiences and particularly to those of France. In his conclusion, the author makes a plea for more thoroughgoing statistical research in the monetary field as a means of establishing more firmly sound monetary theory. The booklet is well worth reading.—E. E. AGGER.

The struggle in England over the Trade Union Bill and the recent Supreme Court decisions in labor cases, culminating in the Bedford Cut Stone case, handed down last spring, remind us once more of the large importance of law and courts of law to the labor movement. A book whose "chief purpose is to explain, to clarify, and not to justify, the reasoning of the courts in labor cases" has been published by Alpheus T. Mason under the title, *Organized Labor and the Law, with special reference to the Sherman and Clayton Acts* (Durham, Duke University Press, 1925; xiii, 265 pp.). Its twelve chapters outline the development, in England and in the United States, of the common and statute law relating to labor

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and, in the light of this development, describe and interpret the Federal anti-trust acts in their relation to labor. The first part of the book deals with the English statutes, the doctrines of criminal conspiracy and restraint of trade, rights to strike, picket and boycott, and the legal justification of injunctions in labor disputes. Both the Sherman and the Clayton Acts are examined with respect to legislative intent in framing the legislation and the interpretation of the Acts by the courts. The discussion of the Sherman Act includes a chapter on its common-law construction and the effect upon the labor movement. The last chapter deals with the Coronado Case and the suability of trade unions. The book is carefully annotated, and contains a table of cases and an index.—PAUL F. BRISSENDEN.

Mr. Harold Ernest Burtt's book on *Principles of Employment Psychology* (Boston, Houghton Mifflin Company, 1926; xi, 568 pp. $4.00) is probably the best of the volumes recently published which give special attention to the technique of employment testing. The author construes the phrase "employment psychology" in the strict sense of selection and placement of workers and covers the existing knowledge of the kinds of tests which may be used and which have been used thoroughly and clearly. The book is more comprehensive than Laird's similar study, and less mathematical than the volume by Bingham and Freyd. It is gratifying to see that the author keeps to a conservative point of view in the claims he makes about the immediate utility of the various tests.—ORDWAY TEAD.

If one can overcome an initial prejudice against debaters' manuals and similar short cuts aimed to supply immature minds with ready-made arguments on complex social issues, one can find a good deal to praise in *Selected Articles on Unemployment Insurance,* by Allen Bennett Forsberg (New York, The H. W. Wilson Company, 1926; cvii, 487 pp. $2.40). Debaters' handbooks at their best have the difficult problem of trying to serve truth and error at the same time. This is exemplified in the present volume. The great bulk is devoted to a most helpful compilation of articles and references on unemployment and unemployment insurance which would, of themselves, stimulate humility and dispassionate judgment. But the book starts with a forty-page brief proving conclusively, first, that obligatory unemployment insurance legislation should be enacted and, second, that it should not. In these pages, humility perforce disappears and partisan assertions rule. The principle is to be deplored, for any student who is not willing to browse through the compilation of articles and get some knowledge and ideas from them should cer-

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tainly not be encouraged to use ready-made arguments in specious debate; while if he has done the reading, what greater advantage to him than thinking out the main points himself and organizing his own argument? Better still, some authorities in colleges and high schools are beginning to realize the sophistry of the whole debating procedure, and are working out new forms of public discussion encouraging the expression of real convictions rather than of arguments for sides. It is to be hoped that short-cut affirmative and negative briefs will soon be an anachronism, and come to be regarded with as much disfavor as a Latin crib.—HERMAN FELDMAN.

Problems in Municipal Government by A. Chester Hanford (Chicago and New York, A. W. Shaw Company, 1926; xi, 457 pp. $4.00) is designed for use in connection with courses in municipal government. It is neither a text nor a book of readings, but a case-book. Ninety-seven problems are arranged in two major and twenty-five minor divisions. Part I consists of problems in organization and legal relationships and Part II of problems in municipal administration. Each problem comprises a description of an actual situation that has developed in a given city or state together with a series of questions requiring solution. Thus a problem relative to commission government is based on the conditions existing in Buffalo in 1925. Buffalo's government is described both in structure and in operation and three questions are presented for consideration: (1) Would the election of commissioners designated to head certain departments improve the government of Buffalo? (2) Should the commissioner chosen as mayor be given the power of veto? (3) Should the citizens of Buffalo who are desirous of improving the government of the city start a movement in favor of a city-manager charter? To aid the student in handling the problem, references are given to pertinent portions of standard works in the field of municipal government. The object of the book is to put some life into a course in municipal government. It is intended to constitute a political laboratory in print and make the student realize that text-book principles and conclusions are not the products of mere "closet philosophy". Furthermore, the problems form a sound basis for classroom discussion, give the student an opportunity to think, and provide illustrative material. Although essentially a problem-book, Hanford's work also serves in a limited sense as text-book and book of readings. Despite the fact that some of the problems are too long and others too complicated and advanced for the student venturing for the first time into the field of city government, the book

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as a whole is worth while and suitable for classroom work. If properly utilized it ought to produce satisfactory results.—E. B. SCHULZ.

"Whoever has power has civil liberty" is the laconic opening sentence of Leon Whipple's excellent book, *The Story of Civil Liberty in the United States* (New York, Vanguard Press, 1927; vi, 366 pp. $.50) With prodigious industry and persuasive clarity the author devastates the rationalizations concerning American liberty which are the stock in trade of uncritical political scientists as well as of Fourth of July orators. He does this not by polemics but by a well documented realistic survey of our history from pre-revolutionary days to the present. The book is indispensable as collateral reading for courses in American Government and American History. — BERNHARD J. STERN.

There are few introductory text books in the field of anthropology and accordingly each new attempt to formulate an approach to the data of what Marett, parodying Pope, has recently called "the improper study of man" is important in determining future developments in anthropology. It is gratifying therefore to find Wilson D. Wallis' *An Introduction to Anthropology* (New York, Harper and Brothers, 1926; xvi, 520 pp. $3.75) so free from empty theoretical reconstructions and replete with descriptions of primitive life. Trained in England, the author, nevertheless, has an approach little different from that of the American ethnologists. In this book, he has attempted to sum up the findings of anthropology as did Tylor in 1881 in his *Anthropology,* and although his task is more difficult due to the vast increase in materials, he has succeeded well in assembling relevant data and in presenting them lucidly. Many of the chapters are too fragmentary to be of great value, but the arrangement of the data shows his clear grasp of the intricacies of his materials. The section on Physical Anthropology is the least satisfactory of the book; the author develops upon the assumption of man's arboreal descent without presenting the contradictory evidence, and although aware of the arbitrariness of race classifications, he presents Haddon's classification. As a text, the book is not as effective as Kroeber's *Anthropology* but it supplements that book excellently. — BERNHARD J. STERN.

Walter Lippmann's *Men of Destiny* (New York, The Macmillan Company, 1927; 244 pp. $2.50) is a collection of character sketches of outstanding personalities in American life and of articles dealing with various topics of political ideology. Mr. Lippmann

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is brilliantly successful in his analyses of personalities, and nowhere more so than in his analysis of the social outlooks of H. L. Mencken and Sinclair Lewis. He is not so successful in his systematic articles, such as "The Dogma of Majority Rule" and "The Battle over the Censorship." The book therefore suggests these reflections: either that Mr. Lippmann's forte is not political philosophy, but analysis of personalities; or else that in his intellectual education Mr. Lippmann has now progressed to the point where he is able to see the beam in another's eye that distorts the vision of democracy, but not the mote in his own. He is able, for example, to see what is callow in Mencken and Lewis and in their indignation against American democracy. And yet when he turns to systematic theorizing he commits almost the same fallacies and perpetrates the same naïvetés that he condemns in these writers. The question of the direction of Mr. Lippmann's personal talents is, of course, not important, but it is important that American political and social writers should treat the problem of democracy with some intellectual dignity and mellowness of perspective. To paraphrase Mr. Lippmann on Sinclair Lewis, one might ask them not to be so cocksure that the Declaration of Independence and the other household gods of Gopher Prairie are altogether a joke.—BENJAMIN GINZBURG.

The third edition of Dr. Melvin Thomas Copeland's *Problems in Marketing* (Chicago and New York, A. W. Shaw Company, 1927; xiii, 819 pp. $5.00) retains the fundamental plan of its predecessors. It is a comprehensive collection of well-chosen marketing problems in the retail and wholesale field, including matters of sales organization, promotion, advertising and price policies. Nearly all of the 178 problems were recorded by the Harvard Graduate School of Business Administration. That they are based on actual experience will be attested by any business man. So well selected and so exact in their details are these cases that almost every type of distribution problem seems to be touched on. It would have interested the reviewer to have more material on the problems in distribution created by the price-cutting broker, or desk jobber, and by retail purchasing agents and discount associations or clubs. As these are on the increase, we may expect to find material on this subject in later editions. Problems in marketing created by shipping rates could also be added with advantage. The author's Preface refers to the problems as "cases" and the book is presumably intended to be a text in marketing courses which follow the plan of instruction from cases customary in law schools. There is, however,

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a profound difference between the cases given here and those given in a law text. In the latter the statement of the case is followed by a reasoned decision; in this book we have only what corresponds to the "statement of the case" in the law text. There is no answer, no discussion even of the *pros* and *cons*. The title "Problems in Marketing" is apt. The student will find abundant mental exercise in discussing these problems; but the business man would like a statement of possible solutions, information as to what solution the management tried and with what success. That is why Professor Copeland's book will remain, what he no doubt intended it to be, a text, instead of being a practical manual.— EDWARD KREHBIEL.

The first of a new series of "Imperial Studies Monographs," edited by Professor A. P. Newton and inaugurated by the Imperial Studies Committee of the Royal Colonial Institute for the purpose of facilitating the publication of meritorious work by young historical scholars, is entitled *Political Unrest in Upper Canada, 1815-1836* (London, Longmans, Green and Company, 1927; 210 pp. $3.50). It was written as a thesis for the degree of Doctor of Philosophy in the University of London. The author, Dr. Aileen Dunham, has made excellent use of the Colonial Office records and other sources and has constructed her book in accordance with approved specifications for the doctoral dissertation in history. She chose the year 1815 as her starting-point because Upper Canada had "no real political history" before the War of 1812, and she decided to end with the year 1836 because she regarded the Rebellion of 1837 not as a climax but as an anti-climax, "accidental rather than inevitable, and out of harmony with the real sentiments of Upper Canadians." Miss Dunham deals carefully with all the issues of political controversy in Upper Canada, nor does she neglect the personal element in politics, which, in her opinion, "probably transcended everything else in importance." The idea of establishing in a colony the British system of responsible government was first conceived in Upper Canada, and it is this fact that gives to the history of the province its principal importance in the wider history of the modern British Empire. The idea, as is well known, was not original with Lord Durham, whose great *Report* gave it Empire-wide publicity. So far as any individual deserves credit for the new conception that was to transform the Empire, it should be given, Miss Dunham thinks, to Dr. William Warren Baldwin, father of the statesman, Robert Baldwin. As early as 1828, ten years before the Durham Mission, the elder Baldwin was writing of the need of "a provincial ministry

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. . . responsible to the provincial parliament". If we are to accept as written in good faith an anonymous review that appeared in the *Upper Canada Herald* in October, 1829, it would appear that a similar proposal had been made some time before 1810, but Miss Dunham reports that no trace of the tract in which it was alleged to have been made can be found, and she inclines to the opinion that it was a fabrication. From 1829 onward the expression "responsible government" occurs frequently in the writings of Upper Canadians, though the significance of the demand does not seem to have been grasped in England for some years.

The arguments on the diffusion controversy which have occupied so much of anthropological literature in recent years are admirably summed up in a little book of the New Science Series, *Culture; The Diffusion Controversy* (New York, W. W. Norton and Company, Inc., 1927; 106 pp. $1.00). Four short, concise articles by leading anthropologists make up the book. Dr. Elliot Smith presents the case for the strict diffusionists and sets forth the theory of the single origin of civilization in the Nile valley from which it spread by means known or unknown to the other portions of the globe. Pyramids and sun worship of Central America are definitely related in origin to the pyramids and sun worship of the ancient civilization of the Nile valley. Invention is such a difficult and rare event that it practically never happens more than once. The presence, therefore, of similar cultural achievements in different parts of the world is a sign of communication between these parts by some means at an earlier time. This heliolithic theory of Dr. Smith's is then most destructively assaulted in turn by Drs. Malinowski, Spinden, and Goldenweiser. Dr. Malinowski, arguing for a "functional view" of culture, offers evidence of independent invention from the life of different primitive peoples. The two processes, diffusion and invention are never entirely separated for there is no invention without diffusion nor diffusion without some invention. Even though the diffusionist argument has been already overthrown, Dr. Spinden, by offering example after example of independent inventions from the rich culture of Central and South America makes the destruction complete. He presents convincingly the argument for independent invention and shows how similarity of culture may develop by convergence from originally different sources and that different cultures may develop from similar sources.— LUTHER S. CRESSMAN.

Thirty years after its original publication, G. P. Gooch's monograph in the history of political ideas, *English Democratic Ideas in*

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the Seventeenth Century (new edition with notes and appendices by H. J. Laski, Cambridge University Press, 1927; v, 315 pp. $4.25) remains the best available in its special field. The manner in which it has stood the test of the intervening years makes a critical review impertinent. More appropriate would be the expression of admiration for the cogency with which the analysis advances, the grasp of the salient movements of thought, the compactness of statement, the easy command of a dignified and precise style. The admiration increases when it is remembered that the book was written by a very young man. In an American university it would have been scarcely conceivable. For there is more in this book than Mr. Gooch's writing; there is the fruition of centuries of British political life and British passion for politics, of the British university tradition in which young men reach an early intellectual maturity. It is a civilized book. Compared with it our own doctoral dissertations are provincial; only Wilson, steeped in the British spirit, turned out something comparable in *Congressional Government*. But Mr. Gooch's work runs true to the British tradition in still another respect. It is contained within very definite limits. As a study in political-religious ideas it limits itself to the interaction between those ideas and the course of political-religious events. It fails to take cognizance of the economic and social-psychological conditions that influenced political ideas. It fails, in short, to burst the bounds of its self-contained system. This may be due in British academic writing to a fine donnish restraint—what Walter Pater delighted to call *ascesis*—or it may be due to the simple failure to see the connections. With the recognition of this limitation the book should have even greater value now than thirty years ago. The art of adjusting the mechanisms of government to changing human values—an art which seventeenth-century kings and parliaments found so difficult—has, if anything, increased in delicacy since Mr. Gooch wrote. To a generation for whom the democratic state is becoming a decadent anachronism it may be of some value to study the history of several generations for whom it was a dangerous novelty.—MAX LERNER.

In the ever-growing volume of literature on the problems of juveniles and especially juvenile delinquency, *Juvenile Courts in the United States: Their Law and Practice* (Chapel Hill, University of North Carolina Press, 1927; xvii, 277 pp. $2.50) by Herbert H. Lou, should find a warm welcome. Dr. Lou has gone carefully through the mass of material on the juvenile courts and has given the

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reader a résumé of the status of this institution which has so changed our whole technique of dealing with young delinquents. The state, by taking an action which Dean Roscoe Pound called the most revolutionary in our whole legal history changed itself from the prosecutor to the defender of the accused child. Such a change of procedure was not accomplished without a great many conflicts with the old established institutions. The juvenile courts have in the main been upheld by the higher courts but the history of these cases has been preserved in widely scattered documents. This history of the development of the juvenile courts and the fight to maintain their status is told here in a brief and well-documented manner. The organization of the courts, the processes before hearing, and the working of the courts is described in detail. The present methods are critically analysed and measured by the standards set up as desirable by the workers in this field. As a result none of the courts are shown to be perfect but the movement is proven to be the best thing that we have yet devised for treating the problems of these unfortunate youngsters who fell afoul our social conventions. The significant tendencies within the movement are briefly described and evaluated. Of these the most important seems to be the effort to give over to the educational system the task of controlling delinquency among children. A very complete bibliography together with a list of the cases relating to the status of the juvenile court rounds off the study.—LUTHER S. CRESSMAN.

D. Riazanov, as editor of the forthcoming definitive edition of the complete works of Marx and Engels in thirty-six volumes, is thoroughly equipped to treat effectively the lives and teachings of these leaders of proletarian thought in their political, economic and cultural setting. This he does in a series of lectures originally given at the Moscow Socialist Academy and now translated and published in English under the title *Karl Marx and Friedrich Engels* (New York, International Publishers, 1927; 224 pp. $2.50). Although these lectures are distinctly popular, they incorporate new material supplementing the earlier biographies by Franz Mehring and Gustav Mayer.— BERNHARD J. STERN.

American Communism by James Oneal (New York, Rand Book Store, 1927; 256 pp. $1.50) presents picayune details of the factional struggles of the American Communist Party with little purpose but to vent the author's spleen against a group toward which he bears a passionate enmity, revealed almost as an obsession in the pages of his book.— BERNHARD J. STERN.

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